Calendar No. 2310

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2286

PROVIDING THAT THE SECRETARY OF THE ARMY SHALL RETURN CERTAIN MINERAL INTERESTS IN LAND ACQUIRED BY HIM FOR FLOOD-CONTROL PURPOSES, TO THE FORMER OWNERS OF SUCH LAND

JUNE 22, 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 1384]

The Committee on Public Works, to whom was referred the bill (S. 1384) to provide that the Secretary of the Army shall return certain mineral interests in land acquired by him for flood-control purposes, to the former owners of such land, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is indicated in the bill as reported by line type and italics.

PURPOSE OF THE BILL

The purpose of this bill as amended is to authorize and direct the Secretary of the Army to reconvey all mineral interests in lands acquired for reservoir projects to former owners in the Yazoo Basin headwater project in the State of Mississippi whenever it is determined by the Secretary of the Army that the exploration or exploitation of any mineral interests will not be incompatible with the development, maintenance, and operation of the reservoir projects and that reconveyance to former owners will be in the public interest. The bill further provides that in the case that former owner is deceased conveyance would be made to legal heirs only. Application for reconveyance must be made within 3 years from the date of enactment of this act and the payment required to be made to the United States shall not be in excess of the purchase price by the United States.

GENERAL STATEMENT

The Yazoo River Basin headwater project, located in northwestern Mississippi, was authorized in the Flood Control Act of June 15, 1936,

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as an integral part of the flood-control project for the lower Mississippi River. The plan for the Yazoo River Basin plan included the construction of four reservoirs and certain levees and channel works. The reservoirs are the Arkabutla, Sardis, Enid, and Grenada which have been completed.

The Department of the Army has acquired about 280,000 acres of land which represents essentially the total required for the project. In acquiring the lands it was appraised without consideration of subsurface values, and was taken in fee simple title. In October 1953 the Department of the Army revised its land acquisition policy relating to reservoir projects so as to place greater emphasis on the acquisition of flowage easements instead of fee title.

Enactment of S. 1384 would provide the Secretary of the Army with authority to make adjustments through reconveyances to former owners or their legal heirs of the mineral interests in lands acquired. The proper exercise of this authority will serve to bring about a fair and reasonable adjustment both to owners of the lands which may be in the process of acquisition and to owners of lands heretofore acquired through purchase transactions or condemnation proceedings, and at the same time preserve the objectives of the Federal Property and Administrative Services Act of 1949, as amended.

It is the intent of the committee in recommending favorable action on this bill that the Secretary of the Army shall reconvey any mineral interests, including gas and oil, underlying lands within the Yazoo Basin headwater project which will not be incompatible with the proper development and utilization of the project.

The bill, as amended, is in general conformance with the suggested draft of the bill submitted by the Department of the Army. The reports of the Department of the Army and the Bureau of the Budget are as follows and are made a part of this report:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 23, 1955.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of March 9, 1955, requesting the views of the Bureau of the Budget on S. 1384, a bill to provide that the Secretary shall return certain mineral interests in land acquired by him for flood-control purposes, to the former owners of such land.

The purpose of the bill is to require the Secretary of the Army, under conditions stated in the bill, to convey without charge oil and gas and mineral interests in lands acquired for flood-control purposes to the former owners of the lands.

While the Bureau of the Budget would favor enactment of a bill to accomplish this purpose, we could not recommend enactment of S. 1384 in its present form. The Secretary of the Army in his report to your committee on this measure is forwarding a draft of a proposed alternative bill which, we believe, would provide a sounder basis on which to accomplish the purpose contemplated by S. 1384.

The Bureau of the Budget would have no objection to the favorable consideration of a bill along the lines of the draft forwarded by the

Secretary of the Army. However, we believe that the committee may wish to give consideration to the question of whether applicability of the bill should be confined to lands in reservoir projects which were being acquired by the United States on the 1st of January 1951, as is provided in the Secretary of the Army's proposed draft bill.

Sincerely yours,

DONALD R. BELCHER,
Assistant Director.

DEPARTMENT OF THE ARMY,
June 16, 1955.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to S. 1384, 84th Congress, a bill to provide that the Secretary of the Army shall return certain mineral interests in land acquired by him for flood-control purposes, to the former owners of such land.

The Department of the Army has considered this bill. Its purpose is to require the Secretary of the Army in any case in which (1) the Secretary has acquired land for flood-control purposes prior to enactment of the bill, (2) such land is held by the United States on the date of enactment, (3) no consideration was provided in the transfer or conveyance to the United States for oil and gas and mineral interests in such land, and (4) the person from whom the Secretary acquired the land (or his successor in interest) makes application therefor within 3 years after enactment of the bill, to convey such oil and gas and mineral interests to the former owner (or his successor in interest) without charge.

In acquiring land for flood-control projects, the Department of the Army has ordinarily acquired full fee simple title to land required for project purposes. The benefits flowing from the application of this policy are manifold, but two aspects are significant: land owners are compensated for their entire interest in the property required for project purposes, thus making available to them the maximum lump-sum return from the property with which to reestablish themselves elsewhere, and at the same time providing the Federal Government with complete ownership and control over the property for both foreseeable needs and for unforeseeable developments in project requirements. This policy has not only met the needs of the landowner and the Federal Government in most instances, but has also received the approval of the public generally since it provided the Government with lands for project development as required in the public interest.

However, acquisition of land for flood-control projects since World War II has taken place during a period of increased effort to discover and exploit new petroleum resources. It has been inevitable, therefore, that some land areas required for flood-control purposes should be affected by these activities. For example, the Department of the Army is acquiring an area in excess of 400,000 acres of land in North Dakota for the Garrison Dam and Reservoir project on the Missouri River. By late 1951 fee title to approximately 325,937 acres of this area, including 13,483 acres comprising the dam site and other construction areas, had been acquired.

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However, with the speculation in oil and gas leases which accompanied the significant oil and gas activity in the Williston Basin in 1951, it became apparent that oil and gas rights in the area were acquiring a market value which would increase the cost of procuring the fee title. Therefore, the Department of the Army reviewed its remaining land requirements for the project and concluded that a reservation of oil and gas rights by owners of land within the project area, but not within specified distances of the main dam, spillway, outlets, powerhouse, embankment section, or other structures, would be compatible with project requirements, provided the rights reserved were subordinated to the right of the United States to flood and submerge the land as required and that the exercise of such rights is appropriately restricted.

Some landowners have taken advantage of this opportunity to reserve oil and gas rights, for whatever speculative value they may have; others have elected to convey the full fee simple title to the United States. Since this decision was made in November 1951, fee title to approximately 89,212 acres has been acquired subject to the reservation of oil and gas rights by the owners thereof in the manner indicated above.

The policy applied in the acquisition of land for the Garrison Dam and Reservoir project has been followed in acquiring land for other reservoir projects on the Missouri River, as well as in other areas in which investigations disclosed significant oil and gas leasing activity resulting in speculative values and increased land acquisition costs. In addition, the Department of the Army has reported favorably on several legislative proposals which would authorize the Secretary of the Army to reconvey to former owners oil and gas rights in lands acquired for reservoir projects prior to the adoption of this policy in order to conform the title interest in much of these lands to the title interest acquired after adoption of the policy. The Department's report on S. 536, 84th Congress, a bill to provide for the return to the former owners of certain lands acquired in connection with the Garrison Dam project of mineral interests in such lands was submitted to the chairman, Committee on Interior and Insular Affairs on March 30, 1955.

On the other hand, the Department of the Army has expressed concern that legislative proposals providing for the sale of oil and gas rights in lands acquired for reservoir projects for which land acquisition had been completed prior to 1951 would foreshadow a succession of legislative proposals involving the disposal of mineral interests in lands in areas now the subject of significant oil and gas leasing activity which were acquired by the Federal Government in the past for various public purposes. A development of this nature would seem to suggest the need for determining whether mineral resources belonging to the United States will continue to be exploited under the mineral leasing laws being administered by the Secretary of the Interior or be sold to former owners thereof or to others in a manner similar to sales of surplus properties. In this connection, it is noted that the priority afforded former owners by the Surplus Property Act of 1944, during the period of large-scale disposal of property following World War II, expired in 1950. Finally, such action would seem to also suggest the need for reevaluation of the policy of reserving mineral interests owned by the United States in

lands which are conveyed pursuant to general or special statutory authority to States, local governments, and to institutions or organizations for amounts less than the fair market value thereof.

While the enactment of legislation of the scope of S. 1384 would have broad implications on existing national policy relating to management and disposal of mineral resources of the United States, the Department of the Army recognizes that its action in permitting the reservation of oil and gas rights in lands in certain reservoir projects suggests the desirability of providing legislative authority for the reconveyance of oil and gas rights to other former owners whose property within these reservoirs was previously acquired, provided the Department of the Army first determines that the development, maintenance, and operation of reservoir projects will not be impaired. However, it is concluded that unless revised, S. 1384 would not accomplish this objective. This conclusion is based on the following observations:

(*a*) S. 1384 is limited in scope to "land acquired for flood-control purposes." The policy outlined above, as well as some of the legislative proposals which the Department of the Army has favorably considered, relate to multipurpose reservoir projects.

(*b*) One of the conditions precedent to the conveyance of oil and gas and mineral interests by the Secretary of the Army to the person from whom the Secretary of the Army acquired such land is that "no consideration was provided in the transfer or conveyance to the United States for oil and gas and mineral interests in such land." In acquiring full fee-simple title to lands for reservoir projects, the price paid, whether pursuant to contract or an award in condemnation, constitutes compensation for the estate acquired. Therefore, it appears that this requirement of the bill would limit its application to the relatively few instances in which the owner donated the property or any interest therein to the United States.

(*c*) A collateral condition precedent to the conveyance for which this bill provides is that the person from whom the Secretary of the Army acquired such land (or his successor in interest) makes application for such conveyance. In some instances the owner of the fee title has conveyed mineral rights to others prior to the conveyance of the land to the United States, and it has been necessary for the United States to acquire any such mineral rights required for project purposes from the owner thereof. Therefore, unless this provision in the bill is amended, it appears that persons from whom the United States acquired the mineral rights only would not be entitled to make application for reconveyance.

(*d*) If enacted, S. 1384 would constitute a directive to the Secretary of the Army to convey oil and gas and mineral rights without regard to the effect of such action on the development of flood-control projects for the purposes for which they were authorized.

(*e*) S. 1384 is sufficiently broad in scope to direct the conveyance of oil and gas and mineral rights in any land acquired prior to the date of its enactment and held by the United States on the date of enactment and would, therefore, provide for disposal of mineral interests which have been owned by the United States for many years and, in some instances, have been leased for exploration and exploitation by the Department of the Interior under existing mineral leasing laws.

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In order to provide authorization for adjustments in the title interests in land acquired for those reservoir projects to which the 1951 policy has been applied, the Department of the Army would interpose no objection to the enactment of legislation such as that embodied in the enclosed draft bill.

The fiscal effect of this measure cannot be readily ascertained at this time.

The Bureau of the Budget advises that while there is no objection to the submission of this report, it questions whether applicability of the alternative bill attached hereto should be confined to lands within reservoir projects which were being acquired by the United States on January 1, 1951.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

A BILL To provide for the reconveyance of oil and gas interests in lands acquired by the United States for reservoir projects to former owners thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized, when he determines that the exploration for or exploitation of oil and gas underlying lands within reservoir projects which were being acquired by the United States on January 1, 1951, will not be incompatible with the development, maintenance, and operation of the reservoir project and that the reconveyance of any such oil and gas interests to the former owners thereof will be in the public interest, to convey such oil and gas interests to the former owner thereof (or his successor in interest) upon (1) application made by him within three years from the date of this Act, and (2) payment to the United States of an amount which the Secretary shall determine to be the equivalent of the fair market value thereof.

SEC. 2. Each conveyance of oil and gas interests under this Act shall contain such reservations, restrictions, terms, and conditions as the Secretary determines are necessary for the development, maintenance, and operation of the reservoir project.

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84TH CONGRESS } SENATE { REPORT
2d Session } { No. 2287

AMENDMENTS TO PUBLIC UTILITY HOLDING COMPANY ACT

JUNE 22, 1956.—Ordered to be printed

Mr. PASTORE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2643]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2643) to promote the common defense and the general welfare of the people of the United States by encouraging maximum development of low-cost electric energy from all sources of power, including atomic energy, coal oil, natural gas, and water, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass. However, because the bill as amended has been confined to matters pertaining solely to atomic energy, the committee suggests that the bill be referred to the Joint Committee on Atomic Energy for its consideration.

As a result of hearings and careful committee consideration, S. 2643 has been so extensively amended that the committee deems it advisable to report a substitute bill.

The first committee amendment strikes out all of the Senate bill and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

The second committee amendment amends the title of the bill to make it conform to the changes made by the committee amendment.

Additional amendments change the policy statement so as to limit it to the encouragement of widespread industrial participation in research and development projects designed to achieve the practical production of electric energy from atomic materials; and a restatement of the purpose clause so as to conform it to the encouragement of cooperative efforts in the field of atomic power reactor demonstration projects without subjecting such undertakings to regulation under the Public Utility Holding Company Act of 1935 (hereinafter referred to

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as the Holding Company Act) during the research and development period.

The provisions of the original bill relating to cooperative creation of new generating facilities using any source of power, for example, coal, water, oil or gas, has been eliminated in its entirety. The exemption from the Holding Company Act relating to atomic reactor facilities has been limited to nonprofit organizations holding noncommercial licenses from the Atomic Energy Commission only so long as such facilities are primarily devoted to research and development. Provision is made for the termination of the applicability of the exemption upon an order of the Atomic Energy Commission declaring that such a facility is no longer being used primarily for research and development and proceedings for this determination may be instituted either by the Atomic Energy Commission, the Securities and Exchange Commission or any interested person. The section dealing with the applicability of other laws administered by the Securities and Exchange Commission to an exempt facility has been broadened so as to make applicable any other pertinent Federal law or regulation.

General Statement

S. 2643, introduced on July 27, 1955, by Mr. Potter, for himself and Mr. Pastore, proposed modifications of two definitions in the Public Utility Holding Company Act of 1935, namely, "electric utility company," as defined in section 2 (a) (3) of the said act, and "holding company," as defined in section 2 (a) 7 of the aforesaid act. As originally introduced, the specific purpose of the bill was to encourage and facilitate production of electric energy from special nuclear material by private companies (sec. 4) and the production of electric energy from new generating facilities utilizing any source of power such as water, coal, oil or natural gas, through the pooling of financial resources of two or more operating electric utility companies not under the Public Utility Holding Company Act, subject to limitations requiring, among other things, geographical proximity, integration and control by State or Federal regulatory bodies (sec. 5).

A subcommittee, consisting of Mr. Pastore, Mr. Magnuson, Mr. Bible, Mr. Bricker and Mr. Potter, was designated to conduct hearings and to report at the conclusion thereof with recommendations as to its findings.

The subcommittee initiated public hearings on April 17 which continued thereafter on various dates until May 24.

Approximately 30 witnesses, representing interested Government agencies and cross sections of industry, labor, public and private groups as well as scientific and engineering organizations presented detailed views on all phases of the subject matter of the proposed legislation. Sharply divergent arguments for and against the bill have been carefully reviewed and examined. The committee is mindful of the fact that since the date of its original enactment in 1935, the Holding Company Act has never been amended. It has served a salutary and needed purpose and its continued effectiveness in the regulation of the public utility industry in the United States must not be weakened in any way. This point was emphasized at the commencement of the hearings by the chairman of the subcommittee, Senator Pastore, who stated:

> I firmly believe in the spirit, in the purpose, and in the objectives of the Public Utility Holding Company Act of 1935. It was a good law when it was enacted and, after more than 20 years, it is still good law today. As far as I am concerned, the bill we are considering today is intended in no way to change the basic principles and philosophy of the Public Utility Holding Company Act of 1935, nor in any way to scuttle or subvert its intended objectives * * *. My interest in this bill, and the reason why I became a cosponsor, was to better promote research and development in the field of atomic energy by private industry so as not to lose the race either to Russia or to any other country in this particular field. It would certainly be a sad day for America if we were to allow this to happen.

It is not surprising therefore that the proposal seeking a limited amendment, thought by many to be needed in order to meet present day needs, invited criticism from some who fear that any change in the basic statute would contribute to a resurgence of evils which existed in the utility field prior to 1935. The amended bill, however, containing a carefully limited exemption relating to development of power from special nuclear materials only by nonprofit organizations licensed for research and development projects, would not constitute either a threat or a danger, in the opinion of the committee, to the salutary purpose of the Holding Company Act. Section 5 of the original bill has been eliminated in its entirety and this is discussed in a subsequent portion of this report. Section 4 has been revised in the light of the views expressed by witnesses appearing before the committee and comments solicited from the Atomic Energy Commission and the staff of the Securities and Exchange Commission.

Generally speaking, it can be said that the testimony taken by the committee indicated a unanimous opinion as to the importance of accelerating research and development in the field of industrial adaptation of nuclear material to the commercial production of electric power. The vital necessity for some immediate progress along these lines was recognized by all witnesses concerned with that phase of the proposed legislation. On this point, therefore, there was an area of complete agreement.

As a means of encouraging and stimulating activity consonant with this purpose, both the Atomic Energy Commission and a number of industry representatives attested the present need for a limited statutory exemption from the Holding Company Act for utilities and nonutilities desirous of combining their efforts and financial resources for the construction and operation of prototype reactor facilities at least for the research and development phase of such operation.

There is no reason to believe that the Holding Company Act was intended to apply to nonprofitable nuclear power research and development activities or that companies organized on a nonprofit basis could run counter to any of its aims and purposes. During the course of the hearings, the SEC implicitly acknowledged this fact by suggesting the possibility that such nonprofit organizations could be excluded by Commission order or rule from the definition of "electric utility company" under the act; and further, that sponsoring companies could probably be granted an exempt status under the act. Following the close of the committee hearings, the Commission submitted on June

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15, 1956, a proposed amendment to rule U–7 for public comment which purportedly would exempt nonprofit organizations owning heat producing facilities only from the provisions of the Holding Company Act. However, the subject matter of accelerating the Nation's program for development of atomic electric power as a prime goal of the peaceful adaptation of the atom is one vitally affecting our national and international interests. Consequently, it is the view of the committee that as a policy matter, it is a subject on which the Congress should legislate for the guidance of all interested administrative agencies.

Atomic Reactor Program

As a necessary background to the consideration of this bill which is related to the long-range objective of eventual production of low-cost electric energy from atomic reactors, a brief reference to the atomic reactor program is appropriate.

Prior to the enactment of the Atomic Energy Act of 1954, the Atomic Energy Commission embarked upon the 5-year power reactor development program to expand and accelerate the research and development of 5 different nuclear reactor types, each of which appeared promising as heat sources for the generation of electric energy. The purpose of this program was to generate sufficient technical information so that private industry would be capable of building, when permitted by law, privately financed nuclear facilities with some assurance of technical practicability. This policy was consistent with the widespread industry participation urged by the Industrial Advisory Group in December 1948.

After the enactment of the Atomic Energy Act of 1954, the Commission in January 1955 announced the first round of its power demonstration reactor program and invited proposals from private industry. At the hearing on this bill the General Counsel for the Commission, William Mitchell, testified that 3 proposals and 2 straight license applications were pending before the Commission under the first round announcement. It is the view of the Commission that none of the nuclear electric generating facilities now proposed will be fully competitive with conventional generating facilities, although the technical feasibility of each has been established. The Commission's assistance is offered to private industry to stimulate the building of the proposed reactors under the long-range policy view that even though such reactors may not be economically competitive, they will, at least, act as the laboratory for future advances and form the basis for technological progress toward the ultimate goal of a competitive reactor. In recognition of the newness of the technology, the magnitude of the investment required, and the economic risks involved, the Commission has offered inducements, including research in Commission laboratory facilities and the consideration of requests for waiver of established charges for special nuclear material, in order to make the undertaking sufficiently attractive to industry.

Two of the three first round power demonstration reactor proposals on behalf of private risk capital were made by large groups of utility and industrial companies. This was also true of 1 of the 2 straight license applications. In his appearance before the committee, the Commission's General Counsel stated:

> where large, full-scale nuclear electric generating facilities are to be built, and are of types not yet proven to the point where the economics are fully known, industry will, out of prudence, often attempt to spread the economic risks involved by the means of cooperative undertakings.

Two of the three proposals submitted under the power demonstration reactor program included the ownership and operation of nuclear facilities by subsidiary corporate entities. The administrative advantages of a subsidiary corporate organization are deemed considerable where there is group participation in an undertaking, and it is believed by the Commission that this consideration will influence the continued use of separate corporate entity in future group proposals.

In adopting the Atomic Energy Act of 1954, the Congress stated one purpose of the act to be—

> * * * the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

In carrying out this purpose Congress provided for—

> A program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public.

The program of the Atomic Energy Commission under the Atomic Energy Act of 1954 has been directed toward the encouragement of wide and active participation in research and development of nuclear power reactor projects dedicated toward the attainment of peaceful and beneficial uses of the atom. This program is believed by the Commission to constitute the fastest means of progress toward the achievement of the goals set forth in the act. Broad participation of private industry is encouraged in order that widely diversified technological know-how and skills may be brought to bear on the problem. It is only through the continued participation by wide and varied interests, represented by small, medium, and large companies in all fields of industrial endeavor, that the Nation's resources of scientific knowledge, technical skill, and manufacturing know-how can be most effectively directed toward the early attainment of the benefits awaited by the people of the Nation and of the world. The threat posed by the adoption of any program less than the most effective is the loss of the Nation's position in the world's race to establish a nuclear power reactor industry.

NONCOMMERCIAL LICENSES

The Atomic Energy Act provides for two types of atomic facility licenses. The first, issued under section 103 of the act, are called commercial licenses. Before such commercial licenses may be issued, the Atomic Energy Commission must make a finding in writing that some type of "utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes."

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The second are called noncommercial licenses and may be issued under section 104 of the act. Those issued under section 104 (a) are for medical therapy and those under section 104 (b) and section 104 (c) are for research and development. The only licenses which will be issued for the present and immediate future will be noncommercial licenses under section 104 and principally for uneconomic reactors constructed under 104 (b). It is these 104 licenses to which the bill relates. Moreover, the AEC has discretion to grant or withhold such a license and has adopted five criteria to guide its consideration of whether to accept or reject proposals that are made for prototype reactor construction. These are (1) probable contribution of the proposal toward achieving competitive nuclear power; (2) the cost to the AEC; (3) the financial risk to be assumed by the maker of the proposal; (4) the competence and responsibility of the maker; and (5) the assurance given against abandonment of the project.

It was the view of the Atomic Energy Commission, as well as other interested witnesses, that an exemption for the period during which a particular reactor facility is being used primarily for research and development work would be adequate. However, the Atomic Energy Commission advised that where a facility has been licensed under section 104, the Commission does not contemplate that it will thereafter require the license to be converted to a commercial one under section 103, notwithstanding the fact that the primary research and development function of the facility has been served. Therefore it was necessary that the bill contain appropriate provision for the termination of the applicability any exemption upon the cessation of the primary research function of the licensed facility. The question as to when the primary function of research and development of a prototype reactor facility is ended is one more likely to depend upon on nuclear science and engineering factors and less upon conventional utility economics. Hence the bill provides that the Atomic Energy Commission assume the responsibility of making this determination in proceedings which may be initiated by the Securities and Exchange Commission as well as the Atomic Energy Commission if such is desirable. The committee believes that there should be a close liaison between these two agencies on this subject and notes that the hearings disclosed a lack of appropriate coordination of interest between them on the important subject of facilitating private industry's participation in the atomic reactor program, looking toward development of the economic generation of low-cost electric power.

The Public Utility Holding Company Act as Related to Research and Development of Atomic Power

The Holding Company Act was enacted primarily to effect dissolution of combinations of companies in the utility industry which had been found to create serious regulatory problems for local ratemaking agencies; had confusing, complicated and uneconomic capital structures resulting in speculative classes of securities; and which were highly detrimental to the public interest. Its effect has been to cause a beneficial reorganization and integration of the utility industry of the Nation.

At the time of its enactment in 1935, the Holding Company Act could not have been designed to meet the situation a rising 21 years thereafter with respect to needed research and development in the

scientific art of adapting atomic materials to the production of electric energy. This is a wholly new source of power which was beyond the perception of even the most visionary men of that time.

The Holding Company Act is designed to apply to any parent company which controls a public utility company. Under the act, a public utility company is either an "electric utility company" as defined in section 2 (a) (3) or a "gas utility company" as defined in section 2 (a) (4). It is believed that under the present definition of "electric utility company" a company owning reactor facilities designed to produce heat from which electric power is to be generated would likely be an "electric utility company." Whether a company producing heat only and not generating electricity is an "electric utility company" under the present definition is a question which has not been passed upon either by the courts or by the Securities and Exchange Commission. However, it was the informed view of the Commission that such an interpretation of the definition would likely be dictated if the case arose. Hence, any company, or group of companies, not otherwise a "holding company" which owned or controlled a subordinate reactor company would assume the risk of being regarded as a "holding company" under section 2 (a) (7). However, if a company owned an adjacent generating plant in addition to a heat-producing reactor, it is clear that it would be an "electric utility company." It was the opinion of some, including the Securities and Exchange Commission, that as a practical matter the intimate functional and geographical relation of a heat-producing operation with a generating operation would lend itself better to having both these functions embraced in one corporate entity for regulatory reasons as well as engineering and management reasons.

The ultimate test in determining whether a person is a "holding company" is actual control of the public utility company. There are two methods of determining actual control. One is a prima facie or presumptive method arising automatically from ownership of 10 percent or more of the outstanding voting securities, with power to vote, of a public utility company. The second method applies, after notice and hearing, upon a determination by the SEC that one or more companies are exercising directly or indirectly a controlling influence over the management and operations of the public utility company. While this finding cannot be lightly made and must be predicated upon a public interest necessity or protection of investors or consumers, it constitutes a deterrent to desirable unhampered operation during research and development of atomic reactor facilities.

The Holding Company Act incorporates a complete system of control and regulation administered by the Securities and Exchange Commission which imposes appropriate burdens upon utility holding companies and subsidiary companies which were recapitulated by E. Blythe Stason, dean of the University of Michigan Law School, as follows:

> (1) *Registration with the SEC.*—Section 5 of the act requires all holding companies as defined by the act to register with the Securities and Exchange Commission. The registration statement must include an extended description with respect to each holding company setting forth the charter, the bylaws, trust indentures, mortgages, underwriting arrangements, and similar documents; and, in addition, the Commis-

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sion may require information with respect to the organization and financial structure, the terms, position, rights and privileges of different classes of securities, the directors and officers, together with their remuneration, any bonuses and profit-sharing arrangements, all material contracts, balance sheets, profit and loss statements, and any other information that the Commission may prescribe.

(2) *Issuance of securities.*—Section 6 of the act provides that it is unlawful for a registered holding company or a subsidiary thereof without permission of the Securities and Exchange Commission to issue or sell securities or to alter priorities, preferences, or voting power of security holders.

(3) *Acquisition of securities and utility assets.*—Section 9 of the act provides that a registered holding company must obtain Commission approval for the acquisition of securities or utility assets or other interests in any business.

(4) *Intercompany loans, etc.*—Section 12 of the act contains a number of limitations. Loans by the companies in the same holding company system are subject to SEC approval; the Commission must approve the payment of dividends, the redemption or acquisition by a holding company on its own securities, and the sale of securities of public utility companies and utility assets. All proxy solicitation is subject to SEC regulation. Transactions between the companies in the same holding company system are subject to regulations of the Commission regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interests, duration of contracts, etc.

(5) *Intercompany service, sales and contracts.*—Under section 13 the performance of service, sales, and construction contracts by holding companies, subsidiaries, affiliates, or mutual service companies is placed under stringent Commission regulation particularly as to cost allocation.

(6) *Reports.*—According to section 14 of the act rather detailed periodic reports must be filed with the SEC by every registered holding company. It should be reemphasized that these reports must cover not only the immediate relationships with the subsidiary, in this case the atomic research project, but also all other business of the company.

(7) *Accounts and records.*—Section 15 requires the holding companies to keep certain records and accounts and the Commission may require that accounts, cost accounting procedures, correspondence, memoranda, papers, books, etc., be kept in a form and manner prescribed by the Commission. The Commission has in fact exercised its power to prescribe a uniform system of accounting for holding companies.

(8) *Officers, directors, etc.*—Section 17 of the act provides that every officer or director of a registered holding company must file a statement concerning his ownership of securities in each such holding company or subsidiary company and all changes in ownership must likewise be reported to the Commission.

Such a simple listing of the obligations imposed upon holding companies and subsidiaries clearly indicates the deterring effect which

the act necessarily casts upon those companies who may desire to join together in order to accomplish needed research and development in the field of atomic electric power. Hence, the general concession was forthcoming that the act is not needed to regulate research projects in the developing field of nuclear energy and the committee has noted that the basic divergence of opinion has centered about whether the exemption should be accomplished by administrative rule or exemption orders of the Securities and Exchange Commission or by legislation which this bill proposes. The committee notes that the administrative exemptive possibilities contained in section 3 of the Holding Company Act while seemingly flexible are not necessarily adaptable to all companies which may desire to participate in the reactor program. Moreover, the proposed rule issued by the Commission on June 15, 1956, is expressly limited to companies owning heat-producing facilities but would not cover situations where such companies own both heat-producing facilities and generating facilities. The limitations contained in the Holding Company Act which cover the Commission's rules make it doubtful that it has sufficient authority to extend the rule to such generating facilities. This would seem desirable and necessary in order to keep abreast of possible innovations and improvements in prototype reactor facilities approved and recommended by the Atomic Energy Commission and, also, to promote the organization of atomic power projects in one corporation rather than separate ones, i. e., one to produce heat and one to use such heat in the generation of electricity.

Desirability of This Type of Legislation

The prospective creation of a new source of electric power creates new legal problems for those companies which are being encouraged to pioneer in the field. The present system of regular controls over conventional public utilities has been devised to deal with problems of a comparatively stabilized power industry. The advent of the new technology of nuclear reactors creates novel and unique scientific and technical problems accompanied by tremendous development costs, economic uncertainty, and substantial risks in the expenditure of stockholders' money.

Few utility companies are financially situated to assume the entire risk of this new undertaking. Some, like Consolidated Edison of New York and Commonwealth Edison of Chicago, are in the fortunate position to be able to enter the research and development phase of the reactor program without any assistance from other groups. However, the heavy construction costs, operating and maintenance expenses, together with the uncertain risk of possible liability for extensive injuries caused by an atomic catastrophe, compels the vast majority of public utility companies to spread the costs among other partners, comprised of operating utility companies or nonutility companies which have no connection with the normal business of generating and selling electric power. This combination of risks indicates that the organizational pattern, at least during the research and development stage, will consist of a separate corporation in which many existing corporations are participating. This will serve not only to spread the risks but also to make possible for many, instead of few, to learn and master the new nuclear reactor technology.

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As we have observed, ordinarily where two or more companies join together in the ownership of a nuclear reactor designed to develop electric power and to supply that power for peaceful use, the Holding Company Act of 1935 automatically becomes an issue. This for the reason that such reactor company would likely be regarded as an "electric utility company" within the present definition of that act.

The Holding Company Act imposes regulatory burdens which are properly needed for the control of normal public utility operations in order to protect the investing public and the consuming public. The act was never designed to apply to a situation, such as is involved in the research and development phase of nuclear reactors, where there can be no stock offered to the public nor any competitive power produced which will be sold to the public and, importantly, where there can be no dollar profits to entice corporate managers to engage in activities which lead to monetary abuses.

The Holding Company Act, therefore, stands at the very threshold of this new venture as an impediment and discouragement to some of those who are invited to enter the field.

The act has served a good purpose and will continue so to do. However, the tremendous social good that can be accomplished from a civilian and military point of view by getting the nuclear reactor program off the ground outweighs any remote social good (if indeed one exists) which could be accomplished by blind insistence upon its application to the research and development phase of the reactor program.

Evidence developed during the course of the committee hearings, together with other sources of information available to the committee, definitely indicates that the Holding Company Act serves as a retard to widespread participation in the research and development of atomic electric power.

As we have noted above since the art is still in an uncertain stage, full-scale nuclear electric generating facilities will undoubtedly be built through cooperative undertakings dictated by industrial prudence in an effort to spread economic risks because of the many uncertainties involved. This prompted William Mitchell, General Counsel of the Atomic Energy Commission, for example, to state during the course of the committee hearings that—

> short of the situation where there is an absolute legal barrier, many companies will not wish to embark on such a joint venture if, in order to do so, they must become registered holding companies. We understand that becoming a registered holding company involves SEC control over a company's capital structure and any changes in it, SEC control over the acquisition of securities and other assets, SEC control over loan transactions, etc., all requiring to a greater or lesser degree, the filing of additional reports, participation in hearings, and in general, increased administrative burdens and decreased flexibility of operation. Representatives of industry have informed us that they view this possibility as onerous and significantly discouraging. Industrials, such as chemical companies, who wish to participate in this program, would not normally be subject to the Holding Company Act. And, while it is unquestionably true that a multitude of utility companies have learned to live

with the requirements of the Holding Company Act, others have spent a good deal of time and effort to divest themselves of certain holdings in order to escape its application. The Atomic Energy Commission is in no position to evaluate the validity of the reasons leading to this latter attitude. But its existence has led the Commission to its conclusion that an amendment to the Holding Company Act might well remove an obstacle to industrial participation in research and development projects for the nuclear generation of electric power. I have pointed out the extent to which the Commission has gone in offering financial assistance to provide encouragement; the Holding Company Act appears to present a barrier which financial assistance will not overcome in all instances and which the AEC in moving forward with its program of fostering industrial participation, cannot by itself overcome. We are mindful that the Holding Company Act will not impose such a barrier in all cases, but we believe it important that every avenue of encouragement, consistent with the public interest, be given to every segment of industry; this, in our view, includes holding open to industry a method by which every company, no matter what its geographical location, its primary business, or its capital structure, can participate in a cooperative understanding, in order to reduce the economic risks, for the research and developmental phases of a nuclear power project without, for that reason alone, being subject to the application of the Holding Company Act.

In attempting to meet the problem thus posed and overcoming it, the committee desires to emphasize the following pertinent points:

1. Conventional financing and laws relating to normal utility enterprises, where cost factors are known, are not necessarily adapted to the construction and operation of atomic reactor and generating facilities.

2. Because of the magnitude of the funds needed to develop such projects, only a slight segment of the public utility industry can afford to assume the financial risks and burdens involved. Therefore, joint efforts among individual operating utilities and, in some cases, partnerships with nonutility companies are not only needed but desirable in order to get the program off the ground and to spread the industrial know-how in as wide an orbit as possible.

3. Commercial production of electric power from atomic sources, at costs competitive with conventional sources of power, is not yet at hand. Knowledgeable experts prognosticate many years before such a goal can be realized. In the meantime, atomic reactor programs in the electric generating field must remain on the plateau of research and development. The entry of them into the commercial field may bring many problems and demand a fresh review of their appropriate regulation and control. The fact that commercial production of electric power can be achieved only after the expenditures of huge sums of money during the course of the years ahead was emphasized and reemphasized in the report of the Panel on the Impact of the Peaceful Uses of Atomic Energy to the Joint Committee on Atomic Energy in January 1956. After considerable study and appraisal of

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all aspects of the development of atomic energy, that special panel specifically recommended:

> that the Congress, the American people, and the people of the world recognize that large sums of money and years of effort must be spent to bring atomic power to a point where it can be used effectively and widely on a competitive basis; unless and until research and development demonstrate that atomic power can be economically feasible, there can be no substantial impact.

4. There are no dollar profits in the atomic research and development program. Expenditures of stockholders' money by private utility and industrial concerns is justified on the realization of valuable scientific and engineering skills and knowledge looking forward to the day when such companies will be geared for prompt entry into the atomic power field. Ordinary motives of financial gain which usually constitute the root of economic and social abuses are absent.

5. Under the provisions of the Atomic Energy Act of 1954, ownership of the special nuclear materials, without which reactor facilities cannot be operated, is retained in the United States Government. Hence, no company owning such reactor facilities can become a law unto itself. Additionally, section 105 of the Atomic Energy Act of 1954 contemplates an intelligent and watchful observation at all times of monopoly tendencies in the field of nuclear electric power.

Assuming but not acknowledging a need for legislation, it was the view of the Securities and Exchange Commission that a nonautomatic exemption from the act, to be executed administratively by that Commission would be desirable. The Atomic Energy Commission likewise indicated preference for a nonautomatic exemption. The committee, however, has concluded that such a provision might defeat the purpose of the bill by substituting one burden for another and adding confusion to a field which is not free from uncertainties. Such legislation, in the opinion of the committee, would subject nonprofit atomic reactor organizations and their constituent owners to substantially the same administrative and regulatory burdens which are deemed fundamentally unnecessary for the research and development period which the present bill is devised to remove. Moreover, only a statutory exemption would be sufficiently stable to secure such confidence as would be needed to justify the long-range commitment of substantial funds necessary to group reactor projects by the many utility and industrial partners participating therein.

Relationship of This Legislation to the Promotion of the Common Defense and General Welfare of the Peace of the United States

The encouragement of undertakings in the peaceful adaptation of atomic energy to the generation of electric power is so closely related to the general welfare of all the people of the United States and to our national defense needs as to require little elaboration.

As a compliment to fossil fuels, nuclear electric energy affords a long-range hope for low-cost power for many areas of the United States, whose economic life has been hampered or retarded by dependence upon conventional power generating facilities. Eventually, it offers

a possibility for tremendous savings to power consumers in all parts of the country. The clear policy of the Congress of the United States, as embodied in the Atomic Energy Act of 1954, is to foster and promote the progress of the industrial adaptation and utilization of this new power source.

It is self-evident that the United States, as the greatest industrial power in the world, is dependent upon the generation of electric power. Our national life is keyed in many ways to electricity. Our principal source of power in many of our highly industrialized areas is derived from fossil fuels which necessarily have to be transported by rail or water to generating plants throughout the country. In this day of intercontinental bombers, an armed conflict would necessarily expose our railroads to massive attack. Naval and submarine warfare would pose an immediate threat to coastal shipping and harbor facilities. The consequences of warfare upon our present conventional power system are apparent. Vast areas of this country might well be made to suffer from an acute power shortage. The only presently apparent means of assuring the uninterrupted production of electric power in all regions of the country would require the stockpiling of enormous amounts of fossil fuels which would involve the expenditure of enormous funds from the public Treasury. Large hydro dams would stand in little better position than areas served by electricity generated from coal or oil. From the standpoint of national defense, the development and construction of nuclear powerplants in widely scattered areas throughout the country would directly serve to promote the national defense and insure the preservation of our industrial output in the times of stress and strain.

Statutory Exemption Does Not Remove Essential Regulation

S. 2643, in excluding from the provisions of the Holding Company Act nonprofit nuclear power research and development organizations owning or operating nuclear facilities licensed by the Atomic Energy Commission, does not free such organizations from any essential governmental regulation. The bill merely relieves such organizations of an unessential regulatory burden in order that the totality of regulation in this new field may not become excessive and act as a deterrent to contributions to the development of the art.

The organizations affected by S. 2643 are subject to the Atomic Energy Act of 1954 and the rules and regulations of the Atomic Energy Commission. The fuel supply of special nuclear material is not owned but leased by such organizations from the Atomic Energy Commission. The continued possession and use of such fuel as a licensee under section 104 of the Atomic Energy Act of 1954 is conditioned upon full compliance with that act and stringent regulations of the Commission. Congress, in enacting that section, anticipated the burdensome effect of excessive regulation on 104 (b) licensees and specifically provided that—

> * * * In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this chapter * * *

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The rates charged by such organizations for electric energy transmitted interstate will be subject to the jurisdiction of the Federal Power Commission. When the energy produced by nuclear facilities is transmitted intrastate, the rates charged will be subject to the jurisdiction of State utility regulatory agencies. The organizations will also in all other respects be subject to the jurisdiction of State utility agencies.

The issuance of securities by such organizations is subject to the provisions of the Securities Act of 1935 and the Securities and Exchange Act of 1934. The regulatory protection provided by those acts is in no way minimized by S. 2643.

Moreover, any presently registered holding company or subsidiary thereof would continue under SEC supervision and regulation even though a participant in the ownership of a reactor facility. Additionally, all other pertinent Federal statutes, including antitrust and monopoly laws, would be applicable to organizations exempt from the Holding Company Act by virtue of this statute.

Section 5 of Original Bill

The arguments developed by the committee on section 5 of the original bill were divergent and thought provoking. Critics expressed the view that this provision would substantially weaken the basic purpose of the Holding Company Act and would open the door to numerous abuses which would imperil the public interest. Proponents, however, felt that there were sufficient limitations in the original legislation as to protect the interest of both consumers and investors alike. Nevertheless, the objective proposed by this section was sharply different from the purport of section 4. Apart from other considerations, limitations of time and personnel alone would prevent appropriate and proper resolution of this subject matter at this time. Whether the needs of the United States for additional sources of generating power are presently so urgent as to justify an amendment of the Holding Company Act, so as to permit combinations of the character contemplated by section 5, is a subject which must remain for consideration and investigation by those agencies of Government primarily responsible for this type of study.

Conclusion

In recommending the enactment of the substitute bill, the committee desires to emphasize that the exemption thus created is designed to apply to a reactor facility while such facility is being used primarily for research and development only. Indeed, this is the only stage which we have achieved under the Atomic Energy Commission program to date. We are mindful of the fact that the long-range objective of that program is to provide relatively low-cost nuclear power for the United States as well as friendly foreign countries but, for the moment and in the foreseeable future, the nuclear power reactors which will be constructed under licenses issued by the Commission will be built and used to gain operating experience and to obtain valuable and needed information on manufacturing and operating costs.

It is the view of the committee that when any of the reactor facilities constructed on a prototype basis are no longer operated primarily for

research and development purposes, the need for any special consideration is ended and the time is then at hand for such facilities to be considered and treated by the Securities and Exchange Commission under all provisions of the Holding Company Act if the Commission believes they are applicable. When the time arrives when reactors can be built and operated as economically as competitive powerplants, they should be subject to such regulation as the public interest demands of any other generating facility. Thus, when the long-range objective of the reactor program is achieved and any reactor facility can be considered as capable of producing electric energy upon a competitive basis with other power facilities, it should take its place in the normal utility company pattern and be subject to regulation and control under those Federal and State laws which are designed to protect consumers and investors alike. The committee, therefore, wishes to make it plain that this legislation is not designed to confer upon a reactor facility an immunity from the Holding Company Act extending beyond its function as a research project nor is its purpose one to confer upon a proven reactor facility a special status which cannot be enjoyed by conventional power facilities.

Summary of Bill

For the sake of convenient reference a brief summary of the bill, S. 2643, as amended, follows:

The policy statement has been changed to limit it to encouragement of widespread industrial participation in research and development projects to achieve practical protection of electric energy from atomic materials.

The purpose clause is restated so as to conform it solely to the encouragement of cooperative efforts in the field of research and development of atomic reactor projects without subjecting such undertakings to regulation under the Holding Company Act.

The definition of "electric utility company" as set forth in section 2 (a) (3) of the Holding Company Act is modified so as to grant an automatic exemption from the act to nonprofit organizations operating atomic reactor facilities under noncommercial licenses from the Atomic Energy Commission for so long as such facilities are primarily devoted to research and development. It provides that such company shall own or operate no transmission facilities other than a transmission substation and related facilities adjacent to its generating plant. This latter qualification avoids the possibility of construing the exemption to apply to a power transmission company. It simply means that the exempt facilities would be appropriately cut off at the busbar. Thus, a single company could own and operate generating facilities as well as heat producing facilities but not such transmission facilities which would permit it to sell power directly to the public.

It is also provided that the applicability of the statutory exclusion shall be terminated 30 days after issuance of an order by the AEC declaring that the facility is no longer being used primarily for research and development. Proceedings for this determination shall be initiated by either the AEC, the SEC, or any interested person and will be taken under the provisions of the Atomic Energy Act of 1954 which relate to issuance, revocation, or suspension of licenses (ch. 16). Provision for termination is necessary since AEC advises that once non-

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commercial licenses are issued, they may never be changed over to commercial licenses even though the reactor facility is no longer primarily in a research stage. Such termination proceedings are subject to notice, hearing, and other requirements of due process as well as judicial review.

Finally, the section of the original bill dealing with applicability of all other laws administered by the SEC has been broadened to make applicable all other pertinent Federal laws, such as the antitrust acts, or regulations and rules thereunder.

Sectional Analysis

A sectional analysis of the bill as reported follows:

SECTION 2

This section states the purpose of the act to be the permissive cooperation in atomic reactor demonstration projects of persons engaged in industry, commerce, engineering and other services and utilities, by uniting for cooperative efforts in the research and development stage of the atomic reactor program without thereby becoming subject to the Holding Company Act solely by reason of participation in such project.

SECTION 3

Section 3 modifies the definition of electric utility company as contained in section 2 (a) (3) of the Holding Company Act so as to provide that no company organized on a nonprofit basis shall be deemed to be an electric utility company if its only connection with the generation or transmission of electric energy for sale is its ownership or operation of atomic reactor facilities licensed under section 104 of the Atomic Energy Act of 1954 for research and development purposes and such company owns or operates transmission facilities other than a transmission substation and related facilities adjacent to its generating plant. Provision is made for termination of the applicability of this exclusion from the Holding Company Act 30 days after issuance of an order by the Atomic Energy Commission declaring that the facility is no longer being primarily used for research and development. This section also provides for the initiation of proceedings for such an order by either the Atomic Energy Commission, the Securities and Exchange Commission, or any interested person, under chapter 16 of the Atomic Energy Act of 1954 which relates to issuance, revocation, or suspension of licenses. Thus, the exemption from the act is limited to a nonprofit organization owning or operating reactor facilities licensed for noncommercial research and development purposes, and which owns no transmission facilities except a transmission substation and related facilities adjacent to its generating plant. The exemption is terminable upon order issued by the Atomic Energy Commission declaring that the reactor facility is no longer devoted to research and development.

SECTION 4

This section provides that nothing in the act is to be construed as conferring immunity upon any exempt person from the obligations or liabilities to which it is otherwise subject under any provision of

the Holding Company Act, the Securities Act of 1933, the Securities Exchange Act of 1934 or any other Federal statute or rules, regulations and orders validly issued under any such acts.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

DEFINITIONS

SEC. 2. (a) When used in this title, unless the context otherwise requires—

(1) "Person" means an individual or company.

(2) "Company" means a corporation, a partnership, an association, a joint-stock company, a business trust, or an organized group or persons, whether incorporated or not; or any receiver, trustee, or other liquidating agent of any of the foregoing in his capacity as such.

(3) "Electric utility company" means any company which owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale, other than sale to tenants or employees of the company operating such facilities for their own use and not for resale. The Commission, upon application, shall by order declare a company operating any such facilities not to be an electric utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of an electric utility company, and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company for the purposes of this title, or (B) such company is one operating within a single State, and substantially all of its outstanding securities are owned directly or indirectly by another company to which such operating company sells or furnishes electric energy which it generates; such other company uses and does not resell such electric energy, is engaged primarily in manufacturing (other than the manufacturing of electric energy or gas) and is not controlled by any other company; and by reason of the small amount of electric energy sold or furnished by such operating company to other persons it is not necessary in the public interest or for the protection of investors or consumers that it be considered an electric utility company for the purposes of this title. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order

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is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clause (A) or (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner. The Commission may by rules or regulations conditionally or unconditionally provide that any specified class or classes of companies which it determines to satisfy the conditions specified in clause (A) or (B), and the owners of the facilities operated by such companies, shall not be deemed electric utility companies within the meaning of this paragraph. *No company shall be deemed to be an electric utility company within the meaning of this section if it is a nonprofit organization and its only connection with the generation or transmission of electric energy for sale is the ownership or operation in whole or in part, directly or indirectly, of facilities used for such generation or transmission when (1) the sole or primary source of the energy upon which the generation depends, except for any standby source of energy for generation, is a facility licensed for research and development purposes under section 104 of the Atomic Energy Act of 1954, as amended, and (2) such company owns or operates no transmission facilities other than a transmission substation and related facilities adjacent to its generating plant: Provided, That thirty days after the issuance of an order of declaration by the Atomic Energy Commission declaring that the facility which is the sole or primary source of the energy upon which the generation depends is no longer being used primarily for the purpose of research and development, the foregoing qualification of the definition of an electric utility company shall not be applicable to any such company. Proceedings for such an order of declaration shall be initiated by the Atomic Energy Commission on its own motion, or on application of the Commission, or on application of any person whose interests may be affected, and shall be conducted in accordance with the procedures then applicable under chapter 16 of the Atomic Energy Act of 1954, as amended, for the conduct of proceedings for the granting, suspending, revoking, or amending of licenses.*

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Calendar No. 2311

84TH CONGRESS
2d Session

SENATE

REPORT
No. 2288

PROVIDING A LUMP-SUM READJUSTMENT PAYMENT FOR MEMBERS OF THE RESERVE COMPONENTS WHO ARE INVOLUNTARILY RELEASED FROM ACTIVE DUTY

JUNE 22, 1956.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 9952]

The Committee on Armed Services, to whom was referred the bill (H. R. 9952) to provide a lump-sum readjustment payment for members of the Reserve components who are involuntarily released from active duty, having considered the same, report favorably thereon with amendments, and recommend that the bill, as amended, do pass.

AMENDMENTS

On page 1, line 7, after the words "active duty" insert the following: "after the enactment of this section and".

On page 2, line 5, beginning with the word "For" strike out down through the period in line 8 and insert in lieu thereof the following:

> For the purposes of computing the amount of readjustment payment (1) a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded, and (2) any prior period for which severance pay has been received under any other provision of law shall be excluded. There shall be deducted from any lump-sum readjustment payment any mustering-out pay received under the provisions of the Mustering-out Payment Act of 1944 or the Veterans Readjustment Assistance Act of 1952.

On page 2, line 16, after "Defense," insert—

> or by the Secretary of the Treasury with respect to members of the Coast Guard when the Coast Guard is not operating as a service in the Navy,

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On page 2, lines 18 and 19, strike out "would be" and insert in lieu thereof "is".

On page 2, line 23, strike out "would be" and insert in lieu thereof "is".

On page 3, lines 3 and 4, strike out "would be" and insert in lieu thereof "is".

On page 3, line 10, beginning with the word "subsequently" strike out down through line 12 and insert in lieu thereof—

become entitled, on the basis of subsequent service, under laws administered by the Veterans' Administration.

EXPLANATION OF THE AMENDMENTS

The amendments adopt several of the suggestions contained in a letter from the Comptroller General that is printed at the end of this report.

The provisions of the bill would be effective only after enactment of the measure.

Prior service for which severance pay has been received would not be counted in computing the amount of readjustment payment. To prevent duplicate payments for the same years of service, any mustering-out pay previously received would be deducted from the readjustment payment authorized by this bill.

A provision in the bill that 6 months or more would be counted as a whole year is limited to years used in the computation of readjustment pay and not for years to establish the 5-year minimum of substantially continuous active duty that is required to qualify for readjustment payments.

Appropriate language is added to vest in the Secretary of the Treasury, when the Coast Guard is not operating as a service in the Navy, the responsibility for prescribing regulations under which a person who is released from active duty because of moral or professional dereliction would be ineligible for readjustment payments.

The word "is" would be substituted for the words "would be" in three places to assure that the language affected would be construed to mean present rather than future entitlements.

A clarifying amendment provides that election of readjustment pay instead of disability compensation from the Veterans' Administration shall not deprive a person of disability compensation to which he may subsequently become entitled only if this subsequent entitlement is based on service after that on which the readjustment payment was based.

PURPOSE

The bill has a dual purpose: (1) To provide a readjustment payment to reservists who, after having served continuously on active duty for long periods of time, are involuntarily released at an age at which their usefulness to the Armed Forces is less than that of younger officers who are needed for current and future service, and (2) to induce Reserve officers, by providing some measure of economic security, to remain voluntarily in the active service and thereby to reduce expensive personnel turnover and to increase the effectiveness of the armed services through the retention of competent and experienced officers.

JUSTIFICATION

Today and for the foreseeable future, the Armed Forces require large numbers of reservists on extended active duty to meet the personnel needs of national security. To attract and retain the required number of capable reservists on active duty, a reasonable degree of security must be provided to them. There is now no satisfactory method for providing readjustment pay or other monetary cushion to soften the transition to civilian life for those reservists who are involuntarily released. The absence of such an authority deters continued active duty beyond obligated periods and creates hardships for those persons who are actually released.

So far as responsible planners can foresee, the active duty strength of our Armed Forces will be maintained at approximately 2,850,000 for an indefinite future. The number of officers needed for an active duty force of such strength is approximately 320,000. To meet this requirement, approximately 150,000 Reserve officers must be utilized on active duty, although the exact figure will be affected by pending legislation intended to increase the ceilings on the number of Regular officers authorized for the Armed Forces.

After 18 years of active duty, a reservist has reasonable assurance of qualifying for the immediate retirement compensation that is authorized after 20 years of active duty. Up to the point of 18 years of active service, reservists need protection against economic dislocation during the critical earning period of their lives. So long as our national policy requires reservists on active duty to augment the regular forces, some compensation to these reservists in readjusting to civilian life seems a justifiable element of the cost of national defense. A part of the justification for the bill flows from the obligation to treat these reservists fairly; at the same time, significant benefits may accrue to the Government. This measure could enhance stability in the officer structure of the Armed Forces. Capable Reserve officers, in the knowledge that they will be eligible for readjustment pay if involuntarily released, should have an increased feeling of security and should be more likely to remain on active duty for extended periods.

EXPLANATION OF PROVISIONS

To be eligible for the readjustment pay that would be authorized by the bill, the reservist must have completed at least 5 years of active duty and must not be eligible for immediate receipt of retired pay. An eligible reservist would receive one-half of 1 month's pay for each year of active duty but not for more than 18 years. The payment would be based upon the basic pay of the grade held at the time of release from active duty. The table printed below illustrates the amounts of readjustment pay to which reservists in different grades with varying periods of service may become entitled.

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Basic pay, enlisted personnel

Grade	Title	Cumulative years of service		
		Over 4 years	Over 10 years	Over 16 years
E7	Master sergeant	$230.10	$261.30	$288.60
E6	Sergeant, 1st class	195.00	234.00	257.40
E5	Sergeant	183.30	210.60	234.00
E4	Corporal	159.90	187.20	210.60
E3	Private, 1st class	132.60	156.00	163.80
E2	Private	109.20	132.60	132.60
E1	do	106.60	106.60	106.60

Readjustment pay, enlisted personnel

Grade	Title	Cumulative years of service		
		With 5 years	With 10 years	With 17 years
E7	Master sergeant	$575.25	$1,306.50	$2,453.10
E6	Sergeant, 1st class	487.50	1,170.00	2,187.90
E5	Sergeant	458.25	1,053.00	1,989.00
E4	Corporal	399.75	936.00	1,790.10
E3	Private, 1st class	331.50	780.00	1,392.30
E2	Private	273.00	663.00	1,127.10
E1	do	266.50	533.00	906.10

Basic pay, officers

Grade	Title	Cumulative years of service		
		Over 4 years	Over 10 years	Over 16 years
O8	Major general	$1,021.80	$1,021.80	$1,021.80
O7	Brigadier general	850.20	850.20	850.20
O6	Colonel	631.80	631.80	655.20
O5	Lieutenant colonel	507.00	507.00	577.20
O4	Major	429.00	483.60	530.40
O3	Captain	374.40	436.80	483.60
O2	1st lieutenant	335.40	382.20	413.40
O1	2d lieutenant	296.40	343.20	374.40
W4	Chief warrant officer	354.90	401.70	468.00
W3	do	323.70	347.10	382.20
W2	do	280.80	319.80	357.80
W1	Warrant officer	251.20	294.10	321.40

Readjustment pay, officers

Grade	Title	Cumulative years of service		
		With 5 years	With 10 years	With 17 years
O8	Major general	$2,043.60	$5,109.00	$8,685.30
O7	Brigadier general	2,125.50	4,251.00	7,226.70
O6	Colonel	1,579.50	3,159.00	5,569.20
O5	Lieutenant colonel	1,267.50	2,535.00	4,906.20
O4	Major	1,072.50	2,418.00	4,508.40
O3	Captain	936.00	2,184.00	4,110.60
O2	1st lieutenant	838.50	1,911.00	3,513.90
O1	2d lieutenant	741.00	1,716.00	3,182.40
W4	Chief warrant officer	887.25	2,008.50	3,978.00
W3	do	809.25	1,735.50	3,248.70
W2	do	702.00	1,599.00	3,041.30
W1	Warrant officer	628.00	1,470.50	2,731.90

CONSIDERATIONS IN DETERMINING AMOUNT OF READJUSTMENT PAY

The bill was formulated with the realization that the readjustment compensation should be adequate but not excessive and that it must not be so attractive as to deter Reserve officers from competing for appointments in the Regular services. While there is a need to provide reasonable security in terms of monetary compensation to a reservist who has served faithfully and is then released involuntarily, an authorization for excessive severance pay might tend to encourage some reservists to seek involuntary release. Similarly, the readjustment payment should not be so attractive as to discourage reservists from competing for appointments in the Regular forces.

MISCELLANEOUS PROVISIONS

The following categories of persons would not be entitled to readjustment payments under the bill: (1) Persons released from active duty at their own request; (2) persons released from active duty for training; (3) persons released from active duty because of moral or professional dereliction; (4) persons released from active duty who are entitled to immediate receipt of retirement pay; (5) persons released from active duty who are eligible for severance pay under other laws, except that such a person may elect to receive readjustment payments under this bill or the severance pay, but not both; and (6) persons released from active duty who are entitled to disability compensation from the Veterans' Administration, except that such a person may elect to receive readjustment pay or disability compensation, but not both.

The bill provides that reservists who are within 2 years of qualifying for retirement compensation under any purely military retirement system shall not be involuntarily released from active duty until they qualify for retirement unless the release is approved by the Secretary of the military department concerned.

Provision is made that reservists serving under active duty contracts, which provide limited compensation if the reservist is released prior to the period of the contract, may elect readjustment pay instead of the payment to which he would be entitled under the active duty contract.

Another provision in the bill would prevent dual payments of readjustment pay in the remote possibility that a reservist might receive readjustment pay after having served for at least 5 years and at some time in the future be recalled to active duty and again qualify for readjustment pay after serving 5 more years. Only one such payment could be made in these circumstances.

Persons who receive readjustment pay under this bill would be ineligible for mustering-out pay under the Mustering-Out Payment Act of 1944 or under the Veterans' Readjustment Assistance Act of 1952. Any amounts of mustering-out pay previously received under these acts would be deducted from the readjustment payment authorized by this bill, although the service on which prior receipt of mustering-out payments was based may still be counted in computing the amount of readjustment payment to which a reservist might become entitled under this bill.

The term "involuntary release," as used in this bill, would include releases of reservists who had completed a tour or category of active

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duty and who volunteered for an additional tour of duty but whose voluntary request for such extension was not accepted.

BILL IS PROSPECTIVE IN EFFECT

The committee was urged to make the readjustment payments retroactive in effect to include the substantial numbers of reservists who were involuntarily released from active duty following hostilities in Korea. Careful consideration was given to these suggestions but the decision was not to make the bill retroactive. Apart from the additional costs that would result from retroactivity, it is always difficult to select a fair effective date if the bill were to be made retroactive. The imposition of any cutoff date always barely excludes some persons who have appealing claims and the committee has deemed it inadvisable to make the bill retroactive to any extent.

COSTS

The Department of Defense estimates that the cost of this measure for fiscal year 1957 would be $11,842,000. This cost estimate is based on programs that involve the involuntary release of 4,335 reservists during this year. Since the costs for fiscal years beyond 1957 depend on the number of reservists involuntarily released in those years, it is impractical at this time to estimate costs for future years.

DEPARTMENTAL RECOMMENDATIONS

The bill is a part of the legislative program of the Department of Defense, as is evidenced by the letters dated June 4, 1955, and March 27, 1956, from the Secretary of the Army that are printed below and are hereby made a part of this report.

Also printed below and made a part of this report is a letter dated November 17, 1955, from the Comptroller General of the United States commenting on S. 2258, a similar bill. Many of the suggestions contained in the Comptroller's letter have been adopted by the committee.

JUNE 4, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Forwarded herewith is a draft of legislation to provide a lump-sum readjustment payment for Reserve officers who are involuntarily released from active duty, and a sectional analysis thereof. It is recommended that this proposal be enacted by the Congress.

This proposal is a part of the Department of Defense legislative program for 1955. The Bureau of the Budget has advised that there would be no objection to its transmittal to the Congress for consideration. The Department of the Army has been designated as the representative of the Department of Defense for this legislation.

PURPOSE OF THE LEGISLATION

This proposal would amend the Armed Forces Reserve Act of 1952 to provide a lump-sum readjustment payment for Reserve officers involuntarily released from active duty after its enactment, and who

shall have completed at least 5 years of continuous active duty as an officer or warrant officer. This payment would be computed by adding (1) one-half of 1 month's basic pay of the grade in which he is serving at time of release from active duty for each year of active warrant or commissioned officer service up to and including the 10th year, and (2) 1 month's basic pay of that grade for each year of active warrant or commissioned service beginning with the 11th year and ending at the close of the 20th year. A part of a year that is 6 months or more would be counted as a whole year, and a part of a year that is less than 6 months would be disregarded.

The proposal is designed primarily to provide a readjustment payment for Reserve officers involuntarily released from active duty; the following classes of persons would not be entitled to such payments: (1) those released from active duty at their own request; (2) those released from active duty for training; (3) those released from active duty because of moral or professional dereliction; and (4) those who upon release would be immediately eligible for retired or retirement pay based upon military service or who elect to receive severance or separation pay, based upon military service under any other provision of law. Additionally, Reserve officers involuntarily released may elect to receive readjustment pay or Veterans' Administration disability compensation to which they may be entitled, but duplicate payments would not be permitted.

By special provision, a Reserve officer on active duty and within 2 years of qualifying for retired or retirement pay could not be involuntarily separated from active duty before he so qualifies except with the approval of the Secretary of the military department concerned.

Acceptance of readjustment pay would not deprive a person of any retired or retirement pay or other retirement benefits from the United States to which he would otherwise become entitled. However, an amount fixed by regulation and based upon the person's life expectancy would be deducted each month from any retired or retirement pay which is based entirely on military service for which he has received readjustment pay until the total amount of the deductions equals the amount of the readjustment pay received.

Additionally, those who receive readjustment pay under this legislation would not be entitled to mustering-out pay under the Servicemen's Readjustment Act of 1944 or under the Veterans' Readjustment Assistance Act of 1952.

As a result of the Korean hostilities and related international tension of the last few years, a large number of Reserve officers with wartime experience have been retained on active duty. These officers have served faithfully and efficiently, in many cases, for 10 or more years. Many are approaching the age at which their usefulness to the military force is less than that of younger officers who are needed for current and future military services. These older Reserve officers have been away from civilian life for an extended period and in some cases have been called away from their civilian occupations on two separate occasions during World War II and the Korean incident. The Department of Defense believes that they should be given an equitable payment upon involuntary release from active military duty to help them readjust to civilian life again.

The principle of readjustment pay embodied in this legislative proposal is not new. Under the provisions of title IV of the Career

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Compensation Act of 1949, severance pay is provided for Regular officers involuntarily separated for physical disability. Likewise, section 235 of the Armed Forces Reserve Act of 1952 authorizes separation pay for Reserve officers involuntarily released from active duty prior to the expiration of the person's agreed period of service entered into under the provisions of that section. This proposal would provide readjustment pay supplementary to that outlined above and for a class of officers for which such benefits are not now provided under existing law. It would not duplicate or provide double benefits since an individual could not receive readjustment pay and severance or separation pay.

In drafting and recommending this proposal, the Department has tried to provide: (1) equitable, but not excessive, compensation for those involuntarily released; (2) a readjustment pay that is not so attractive as to deter Reserve officers from striving for Regular appointments; (3) that an officer who receives such benefits in relation to acquiring retirement eligibility under other laws applicable to him not be penalized; and (4) to guarantee the Reserve officer that if he remains on active duty for a number of years and is then involuntarily released, he will be assured of some degree of economic security during his readjustment to civilian life.

It is estimated that to maintain the active military forces at a level approximating 2.8 million currently and for the foreseeable future, it will be necessary to keep approximately 150,000 Reserve officers on active duty to supplement the Regular officer corps. Excessive turnover of these Reserve personnel is costly and detrimental to the effectiveness of the military forces and the national security. The economic security which would be given by this legislation provides an inducement for qualified Reserve officers to remain on active duty for prolonged periods thereby reducing costly personnel turnover and increasing the effectiveness of our fighting forces through retention of experienced officers needed to direct out military units.

COST AND BUDGET DATA

The estimated cost of this legislation in fiscal year 1956 is $5,462,000. There will probably be costs resulting from this legislation in fiscal years subsequent to fiscal year 1956 which cannot be accurately estimated since approved military personnel programs for these years have not been established at this time.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

MARCH 27, 1956.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense with respect to H. R. 9952, 84th Congress, a bill to provide a lump-sum readjustment payment for members of the Reserve components who are involuntarily released from active duty.

The bill provides that officers, warrant officers, and enlisted personnel who are members of a Reserve component and, who are involun-

tarily released from active duty after completing 5 years continuous active duty immediately preceding such release shall be entitled to a lump-sum readjustment payment. This payment would be computed on the basis of one-half of 1 month's basic pay in the grade in which the member is serving at the time of release from active duty for each year of active service ending at the completion of the 18th year. The following classes of persons would not be entitled to such payments: (1) Those released from active duty at their own request; (2) those released from active duty for training; (3) those released from active duty because of moral or professional dereliction; (4) those who upon release would be immediately eligible for retired or retirement pay based on military service or who elect to receive severance pay based on military service under any other provision of law. In addition Reserve members involuntarily released may elect to receive readjustment pay or Veterans' Administration disability compensation to which they may be entitled.

The Department of the Army on behalf of the Department of Defense concurs in principle in the proposed legislation but considers that the method of computation of readjustment pay should provide increased compensation for service in excess of 10 years. In the event however, the Congress favors enactment of this legislation in its present form, the Department of Defense will interpose no objection.

Enactment of this proposal as now written would result in an increase in the budgetary requirements of the Department of Defense of $11,842,000 for fiscal year 1957. If the legislation were to be enacted in accordance with the recommendation for increased compensation after 10 years' service contained in the third paragraph thereof, the estimated cost would be slightly in excess of $14 million. This additional amount of approximately $2 million has not been included in the budget estimates of the Department of Defense for fiscal year 1957.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The urgency of the request for this report has precluded prior clearance with the Bureau of the Budget to determine the relationship of this proposal with the program of the President. The proposal is being transmitted to the Bureau of the Budget and its views thereon will be transmitted to the committee when received.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 17, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of October 26, 1955, acknowledged October 27, 1955, requesting our consideration of and recommendations on S. 2258, a bill to provide a lump-sum readjustment payment for Reserve officers who are involuntarily released from active duty. Subsection (h) of the proposed bill defines "Reserve officer" as including "an officer or warrant officer

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of any Reserve component of the United States and an officer or warrant officer of the Army or Air Force without specification of component."

Apparently there have been no hearings or reports on this bill. Hearings were held, however, by a subcommittee of the Committee on Armed Services, House of Representatives, and a report (No. 1436) was made on an identical bill, H. R. 6725, 84th Congress, 1st session.

This bill is a part of the legislative program of the Department of Defense. It appears from the hearings and the report on H. R. 6725 that the present identical bill has a twofold purpose: (1) to provide a readjustment payment to Reserve officers who, after having served continuously on active duty for long periods of time, are involuntarily released at an age at which their usefulness to the military service is less than that of younger officers who are needed for current and future service, and (2) to induce Reserve officers, by providing some measure of economic security, to voluntarily remain in the active service, thereby reducing costly personnel turnover and increasing the effectiveness of the armed services through the retention of competent and experienced officers.

The principle of severance pay to members of the armed services is not entirely new. Under the provisions of title IV of the Career Compensation Act of 1949 severance pay is provided for members of the uniformed services separated for physical disability. Section 235 of the Armed Forces Reserve Act of 1952 authorize a lump-sum payment to reservists who are involuntarily released from active duty prior to the expiration of their agreed periods of service, computed on the basis of 1 month's pay for each year of unexpired service. Section 2 of the act of June 16, 1936, as amended, title 10 United States Code section 300a, and section 12 of the act of August 4, 1942, as amended, title 34 United States Code section 850k, authorized a lump-sum payment of $500 a year for each year of active service to certain aviation officers in the Air Corps Reserve and in the Naval and Marine Corps Reserve. Such lump-sum benefits were permanently terminated by the act of April 28, 1950 (64 Stat. 90), effective as of June 24, 1948, because, as stated in Senate Report No. 1282 on that legislation, it was the opinion of the Department of Defense that "such bonuses are not necessary to secure adequate numbers of officers for the Air Force, or for aviation components of the Navy and Marine Corps."

A proposal similar to the present bill was made by the Hook Advisory Commission on Service Pay. (See p. 48 of its report and recommendations for the Secretary of Defense on career compensation for the uniformed services (December 1948) and section 402 of its draft of a bill to implement its recommendations (H. R. 2553, 81st Cong.)). The bill proposed by the Hook Commission would have authorized severance pay for officers separated from service "for reasons other than inefficiency, physical disability, moral unfitness, disciplinary action, or misconduct," which language appears to be more definite and desirable than that contained in this bill, which would deny severance pay to officers released from active duty "because of moral or professional dereliction." However, that particular Hook Commission proposal failed of enactment and the Career Compensation Act does not authorize severance pay except in certain cases, where members of the uniformed services are separated for physical disability.

In the case of officers of the Regular Army and of the Regular Navy, individuals receiving severance pay are generally inelligible to receive retired pay, but eligibility of reservists to receive retirement pay would not be affected by the receipt of readjustment payments provided by this bill, except that the amount of such a payment would be offset against retirement pay otherwise due.

Considering the purposes of the present bill, we question whether service in time of war should be creditable in determining qualifying service or for computing the amount of a readjustment payment. An alternative to eliminating wartime service as creditable service would be to limit the amount of wartime service to 2 or 3 years for the purpose of qualifying for the readjustment payment, but to permit a reservist to count the total of the then current period of active duty in determining its amount. Also, in connection with the matter of credit for wartime service, it may be noted that under the procedure followed during demobilization after World War II, Reserve officers in instances were advanced one grade upon release from active duty. If a similar procedure be followed in the future, the readjustment benefit might be computed on the basis of a grade higher than any in which the officer actually performs service.

We do not have sufficient knowledge of the facts to express an opinion as to the propriety or desirability of the proposed legislation or upon the probability of its achieving the desired results, at least with respect to inducing competent and experienced officers to remain voluntarily on active duty for extended periods of time. There are, however, certain possible ambiguities or omissions in the language of S. 2258 to which we desire to call your attention.

Although the language of subsection (a) of the bill seems to indicate that a minimum of 5 years' continuous active duty as an officer or warrant officer is necessary to qualify for a readjustment payment, the last sentence of that subsection appears to reduce the minimum qualifying service to 4 years and 6 months. Presumably the provision authorizing the counting of 6 months or more as a whole year was intended to apply only for the purpose of computing the amount of a lump-sum payment and not the quantum of qualifying service. If so, the language should be clarified, perhaps somewhat as follows:

"For the purpose of computing the amount of the readjustment payment a fractional part of a year amounting to 6 months [or 183 days] or more shall be counted as a whole year and a shorter period shall be disregarded."

The first sentence of subsection (a) of the bill speaks of "continuous active duty." We think it quite possible that a Reserve officer could be relieved from active duty of 4 years duration and, a few days after the expiration of that tour of duty, be ordered to and enter upon another period of active duty lasting for another 4 years. Upon involuntary release from the second period of duty he would not, under the wording of the bill, be entitled to any readjustment payment.

In determining whether an officer had completed "5 years of continuous active duty" it might be that there would be for inclusion a period of active duty for training if followed, without a break, by a period of extended active duty. Yet under subsection (b) (2) the reverse would not be true, that is, a period of active duty for training following a period of extended active duty could not be included. It is not clear whether active duty for training should be considered to be "active duty" or "active warrant or commissioned service"

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within the contemplation of subsection (a). We believe that this phase of the bill should be clarified.

The first sentence of subsection (a) refers to "continuous active duty as an officer." Under this language, service of 5 years as a Regular officer followed without a break by active duty of 1 month as a Reserve officer might be construed as qualifying for a readjustment payment. Also, 4 years active duty as an officer of a Reserve component terminated by a resignation and followed immediately by 1 year of active duty as an officer of another Reserve component, with involuntary release from the latter duty, might be construed as qualification for a readjustment payment although the involuntary release phase would have been in connection with but 1 year of active duty.

Under the language of subsection (a) an officer with the requisite qualifying service, upon involuntary release from active duty, would appear to be entitled to a readjustment payment computed not on that period alone, but on all prior active officer service as well. Thus, prior officer service in World War I could be counted in computing the amount of the benefit provided. Service other than qualifying service appears to be unrelated to the purposes of this bill and we perceive no reason for including prior service in computing the amount of the readjustment payment. Accordingly, we recommend that only the qualifying service be credited for that purpose. If all service other than qualifying service be excluded in the computation, subsection (f) of the bill should be omitted.

Provision is made in the bill to prevent duplication of benefits, that is, payment of the readjustment payment and retirement pay, disability compensation, mustering-out pay, and severance or separation pay on account of the same service. This is sought to be accomplished by providing for (1) an election between readjustment pay and (a) immediate disability compensation, or (b) severance pay, or (c) separation pay; (2) deduction of the amount of the readjustment payment from (a) subsequent disability compensation or (b) retirement pay; (3) barring payment of a mustering-out payment to an officer who receives a readjustment payment; (4) barring in subsection (f) the inclusion of any active service for more than one readjustment payment by deduction of any readjustment payment previously received from any such later payment; and (5) barring payment of the readjustment payment to an officer eligible upon release from active duty to retired or retirement pay.

In subsection (b) (5) it is intended to provide that an officer cannot be entitled to both a readjustment payment and to severance pay in connection with the period of active duty from which he is being involuntarily separated. However, nothing is said as to severance pay already received for a prior period or periods which might be for inclusion, under subsection (a), in computing a readjustment payment to an officer otherwise qualified therefor. Limiting creditable service to qualifying service only, as suggested above, would eliminate any possible duplicate credit for a prior severance payment and the readjustment payment.

With respect to the disability compensation, such compensation may be paid because of service prior to the officer's entry upon the period of active duty for which he is eligible to receive readjustment payment, or the disability might arise during such latter period of active duty. Obviously, under no circumstances should disability compen-

sation on account of a preexisting disability be affected by a readjustment payment, nor should such compensation arising out of a subsequent tour of active duty be so affected. Presumably it was intended in subsection (b) (6) that an election be made only as to a disability compensation payable because of a disability incurred or increased during the current period of active duty. If that be so, in view of the time normally required to establish entitlement to the disability compensation, we doubt that ordinarily an officer, as a practical matter, could make an election unless he refuses to accept the readjustment payment until his claim for disability compensation is settled. Nevertheless, the bill requires him to elect between them. If he does elect to receive the readjustment payment, the bill is silent as to whether he waives forever any and all rights to disability compensation or merely waives such compensation up to the amount of the readjustment payment, as in the circumstances covered by the third sentence, where the officer subsequently may become entitled to disability compensation. In such circumstances even, the language of the bill seems to require deduction of the readjustment pay even if the disability compensation arose out of an injury incurred many years prior to his last entry on active duty, and possibly even if it arises out of a subsequent tour of active duty.

The third sentence of subsection (b) (6) says that in the event "readjustment pay is elected and the officer subsequently becomes entitled to disability compensation," the amount of the readjustment payment must be deducted. There could be no election between a readjustment payment and disability compensation if there then be no eligibility for the latter. If the third sentence was intended to mean that in the event a readjustment payment has been received, an officer subsequently becoming entitled to disability compensation may elect between such benefits, an officer who had received a readjustment payment might be required to lose the amount thereof from any future award of disability compensation by the Veterans' Administration accepted by him even though such award might be by reason of disability incurred while on active duty 20 years subsequent to the date of entitlement to a readjustment payment.

Subsection (e) provides for an election between a readjustment payment and a separation payment under section 235 of the Armed Forces Reserve Act of 1952 if the eligibility for each benefit accrues at the same time. Nothing is said as to whether prior payments under section 235 are to be considered in computing a readjustment payment, although such readjustment payment possibly might include, under subsection (a), credit for a prior period in connection with which a payment was made under section 235.

Subsection (f) provides that any payments "accruing to an officer under this section shall be reduced by the amount of any payment previously received by that officer under this section." No reference is made to the receipt of prior benefits comparable to readjustment payments, for example, severance pay received as a regular officer under section 514 of the Officer Personnel Act of 1947, although the period of service as a Regular officer for which severance pay was received might be for inclusion under subsection (a) in computing the readjustment payment.

Subsection (g) bars payment of mustering-out-pay to Reserve officers who receive readjustment payments. However, under the

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language of subsection (a), the service on account of which a mustering-out payment may previously have been received would be creditable, if officer service, in computing the amount of the readjustment payment.

Subsection (b) (4) refers to an officer "who upon release from active duty would be immediately eligible for retired or retirement pay." Subsection (b) (5) refers to an officer "who upon release from active duty would be immediately eligible for severance pay." The first sentence of subsection (b) (6) refers to an officer "who upon release from active duty would be eligible for disability compensation under laws administered by the Veterans' Administration." In *Sunshine Coal Co.* v. *Adkins* (310 U. S. 381, 392), the Supreme Court refused to substitute the word "is" for the words "would be" in a statute. Thus, the above three subsections might not be construed as if they stated that the officer in such circumstances "is" eligible for the particular alternative benefit mentioned.

The bill would be permanent legislation and would be propsective only. We are opposed to making it retroactive.

We are unable to furnish any data as to the probable cost of the proposed bill. The cost will be affected by the amount of service creditable for computing the readjustment payment, whether adjustments in other benefits are to be made on account of its receipt, and whether service in time of war will be considered qualifying service. To the extent that such adjustments may be eliminated, the cost will be increased. In that connection it may be noted that the Committee on Armed Services, House of Representatives, in its report (No. 1436) on an identical bill, H. R. 6725, concluded that the readjustment payment is neither a bonus nor a loan, and eliminated some adjustments in its recommendations because it considered them inequitable.

We trust that this report will be of assistance to you in your consideration of this proposed legislation.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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Calendar No. 2312

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2289

INCREASING THE BORROWING POWER OF THE COMMODITY CREDIT CORPORATION

JUNE 22, 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 3820]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 3820) to increase the borrowing power of Commodity Credit Corporation, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill, with the committee amendments, would increase the borrowing authority of the Commodity Credit Corporation from $12 billion to $14.5 billion. As of May 31, the Corporation had in use $11,543,905,150 of its borrowing authority. This consisted of $10,830,000,000 in borrowings from the Treasury, and $713,905,150 in obligations to purchase loans held by lending agencies.

Since this bill was introduced the Soil Bank Act was enacted, providing for the use of the Corporation's funds in advance of appropriation until June 30, 1957, to finance operations under that act. Firm estimates as to the effect of the Soil Bank Act on the Corporation's need for borrowing authority are not feasible at this time and the committee therefore recommends amendments to the bill increasing the Corporation's borrowing authority by an additional half billion dollars to $14.5 billion, which it is believed will carry the Corporation through May of next year when more accurate estimates of needs can be made.

The letter from the Department of Agriculture requesting this legislation is attached.

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DEPARTMENTAL VIEWS

DEPARTMENT OF AGRICULTURE,
Washington, D. C., May 4, 1956.

The PRESIDENT OF THE SENATE,
United States Senate.

DEAR MR. PRESIDENT: This Department recommends the enactment of legislation to increase the borrowing authority of the Commodity Credit Corporation from $12 billion to $14 billion. There is attached a draft of a bill embodying the necessary amendments to accomplish this increase.

As of March 31, 1956, the Corporation had in use $11,436 million of its borrowing power. This consisted of $10,383 million in borrowings from the Treasury and $1,053 million representing obligations to purchase loans held by lending agencies.

We have estimated the additional requirement of $2 billion on the basis of the current production outlook and announced support levels for 1956 crops and an assumption that as large a yield will be obtained on each 1956 crop as was obtained on the 1955 crop, and that the percentage of the 1956 crop placed under price-support loans or purchased will be the same as the proportion of the 1955 crop placed under support. The additional requirement thus estimated amounted to $1,552 million. In our request, however, we have included an additional $448 million to cover possible developments which cannot now be definitely foreseen.

The possible developments include the following:

(*a*) Yields may exceed the 1955 levels (for example, the yield of cotton per acre in 1955 was 416 pounds or 75 pounds greater than the record set the previous year).

(*b*) With larger supplies from past-year's crops in Commodity Credit Corporation inventory, the proportion of the 1956 crop placed under loan or purchased may be greater than for the 1955 crop.

(*c*) Sales of inventories are estimated to be high, and if actual sales do not materialize to the extent anticipated, more borrowing power would be required.

(*d*) If soil-bank legislation is enacted which would require Commodity Credit Corporation financing, it would be desirable to have a margin of borrowing power available to at least initiate the program.

There is attached a schedule showing, by months, the estimated borrowing power to be in use.

The Bureau of the Budget advises that there is no objection to the submission of this proposed legislation to Congress for its consideration.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

COMMODITY CREDIT CORPORATION

Status of statutory borrowing authorization (actual, July 1955 through Mar. 1956; estimated for remaining months)

[Millions of dollars]

Month	Fiscal year 1956		Fiscal year 1957	
	In use at end of month	Available for new or expanded activities	In use at end of month	Available for new or expanded activities
July	$8,425	$1,575	$10,422	$1,578
August	8,694	[1] 3,306	10,664	1,336
September	9,074	2,926	11,131	869
October	9,649	2,351	11,707	293
November	10,245	1,755	12,274	−274
December	10,923	1,077	12,778	−778
January	11,353	647	13,162	−1,162
February	11,522	478	13,383	−1,383
March	11,436	564	13,355	−1,355
April	11,584	416	13,453	−1,453
May	11,592	408	13,473	−1,473
June	11,689	311	13,552	−1,552

[1] Statutory borrowing authorization was increased from $10.0 billion to $12.0 billion approved August 11, 1955.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF MARCH 8, 1938, AS AMENDED

BORROWING POWER

SEC. 4. With the approval of the Secretary of the Treasury, the Commodity Credit Corporation is authorized to issue and have outstanding at any one time, bonds, notes, debentures, and other similar obligations in an aggregate amount not exceeding [$12,000,000,000] *$14,500,000,000*. Such obligations shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be subject to such terms and conditions, and shall be issued in such manner and sold at such prices as may be prescribed by the Commodity Credit Corporation, with the approval of the Secretary of the Treasury. Such obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such obligations shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Commodity Credit Corporation shall be unable to pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights

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of the holders of such obligations. The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Commodity Credit Corporation issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchase of the Commodity Credit Corporation's obligations hereunder. The Secretary of the Treasury may at any time sell any of the obligations of the Commodity Credit Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Commodity Credit Corporation shall be treated as public-debt transactions of the United States. No such obligations shall be issued in excess of the assets of the Commodity Credit Corporation, including the assets to be obtained from the proceeds of such obligations, but a failure to comply with this provision shall not invalidate the obligations or the guaranty of the same: *Provided*, That this sentence shall not limit the authority of the Corporation to issue obligations for the purpose of carrying out its annual budget programs submitted to and approved by the Congress pursuant to the Government Corporation Control Act (31 U. S. C., 1946 edition, sec. 841). The Commodity Credit Corporation shall have power to purchase such obligations in the open market at any time and at any price.

COMMODITY CREDIT CORPORATION CHARTER ACT

* * * * * * *

SEC. 4. GENERAL POWERS.—The Corporation—

* * * * * * *

(i) May borrow money subject to any provision of law applicable to the Corporation: *Provided*, That the total of all money borrowed by the Corporation, other than trust deposits and advances received on sales, shall not at any time exceed in the aggregate [$12,000,000,000] *$14,000,000,000*. The Corporation shall at all times reserve a sufficient amount of its authorized borrowing power which, together with other funds available to the Corporation, will enable it to purchase, in accordance with its contracts with lending agencies, notes, or other obligations evidencing loans made by such agencies under the Corporation's programs.

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Calendar No. 2313

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2290

AMENDMENTS TO PUBLIC LAW 480, 83D CONGRESS

JUNE 22, 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 3903]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 3903) to amend the Agricultural Trade Development and Assistance Act of 1954, as amended, so as to increase the amount authorized to be appropriated for purposes of title I of the act, and for other purposes, having considered the same, report thereon with a recommendation that it do pass with an amendment.

EXPLANATION OF BILL AND COMMITTEE AMENDMENTS

This bill, with the committee amendment, would—

(1) increase the limitation on transactions which might be carried out under title I of Public Law 480, 83d Congress (sale of agricultural commodities for foreign currency) from those calling for appropriations of $1.5 billion to those calling for appropriations of $3 billion;

(2) permit foreign currencies acquired under that title to be used to provide the assistance authorized by section 203 of the United States Information and Educational Exchange Act of 1948 (assistance to schools, libraries, and community centers abroad founded or sponsored by citizens of the United States and serving as demonstration centers for methods and practices employed in the United States);

(3) amend section 304 of Public Law 480 to restrict its effect to sales for foreign currency under title I. (Sec. 304 requires the President to exercise his authority under the act so as to assist friendly nations to be independent of trade with Iron Curtain countries and so as not to increase the availability of commodities to unfriendly nations. The purpose of the amendment is to remove barter transactions from this requirement); and

(4) exempt sales of fruit and fruit products from private stocks under title I of Public Law 480 from the cargo preference laws.

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The need for the bill is fully described in the attached letters from the Departments of Agriculture and State. The committee amendment to section 3 would preserve section 304 of Public Law 480 insofar as it relates to sales for foreign currencies under title I, and prohibit transactions under title I or title III with Russia, Communist China, or North Korea. This amendment, which is approved by the Departments of Agriculture and State, carries out the original purpose of the bill to permit barter transactions with countries other than those named, while preserving what many believe to be the original purpose of section 304.

The committee amendment exempting the sale of fruit and fruit products under title I of Public Law 480 from the cargo preference laws is recommended because of the special problems of that industry both in obtaining refrigerated shipping when needed and in opening, reopening, and retaining export markets in the face of many trade barriers and other handicaps.

Throughout its extensive hearings on agricultural legislation relating to the export of agricultural products, the committee has been impressed by the number of instances in which export markets for fruit and fruit products have been restricted by the actions of foreign governments. Such actions have included preferential treatment to other sources of supply, monetary restrictions, embargoes, quotas, and delays in licensing. Import licenses, when issued, have usually been on a temporary or seasonal basis and when the opportunity to market has been granted, some governments have imposed stipulations which have impaired or destroyed the value of the access. Progress in eliminating these barriers has been discouragingly slow despite the keen interest and intensified efforts of the Departments of State and Agriculture.

The production and marketing of fresh and processed citrus and deciduous fruit is a highly important part of our agricultural economy. Prewar, exports of fresh and processed fruits ranked first among all food items and third among all agricultural commodities. The testimony presented at the many hearings on this subject has shown that the fruit industry has had a historic dependency on world markets and has a continuous need for the export of certain varieties, grades, sizes, and specifications, irrespective of whether or not a total surplus exists, if an orderly balanced marketing program is to be secured.

The fruit industry has not asked for mandatory price support but has consistently endeavored to work out its marketing problems by striving to reopen its prewar export outlets and by continuing to improve domestic markets. Adequate distribution of fruit and fruit products can be accomplished only if the industry has continuous competitive access to all world markets.

Because of the special needs of this industry for assistance in solving its export marketing problems the committee recommends that its sales under title I be exempt from the cargo preference laws and further, that special efforts be put forth by the appropriate agencies of this Government under presently available authority and procedures to minimize and overcome such barriers to fruit exports and particularly to provide continuing commercial arrangements in order to remove the present uncertainties arising from annual negotiations.

While the committee has not recommended any amendment of the bill with respect to animal products, it recognizes that many of the

problems of the fruit industry are also applicable to animal products and that similar action on the part of the executive branch may be required in many instances with respect to animal products.

There is no question, of course, that fruit and animal products, as well as any other agricultural commodity or product thereof, if determined by the Secretary as provided in section 106 to be in surplus supply, are covered by Public Law 480 without regard to whether the Government owns any stocks of such commodity or product.

BACKGROUND INFORMATION

Public Law 480 was approved July 10, 1954, with an original limitation on transactions under title I to those calling for appropriations of $700 million to reimburse Commodity Credit Corporation, to the extent that it is not reimbursed from funds appropriated for other agencies. Reimbursement by other agencies prior to July 1, 1957, is not expected to be sufficient to have a significant effect on the overall size of the program. In August 1955, this limitation was increased to $1,500 million and this amount has now been substantially committed. The committee is informed that additional agreements totaling several hundred million dollars are being held up at the present time awaiting additional authorization.

Since the beginning of the program, 59 agreements have been signed with 27 countries for the sale of agricultural commodities totaling $1,509 million at Commodity Credit Corporation cost, as estimated in the attached tables. An estimated shortfall in procurement of $47 million is expected, reducing the estimated net obligation to $1,462 million. (Since the attached tables were prepared, the price of cotton has been reduced from $140 to $125 per bale, which will result in a larger quantity of cotton being covered by existing agreements (which are on a dollar basis). Since the investment cost per bale remains constant, this increase in quantity will result in an increase of the overall investment cost of about $30 million to $1,492 million.) More than half of this amount has been covered by agreements entered into during the last 6 months.

In terms of quantity, agreements signed to date represent almost 7.1 million metric tons of commodities. By June 30, 4.4 million tons of this total will have been exported, leaving 2.7 million tons to move during the coming months. There has been a lag in cotton shipments, but these should accelerate when the new cotton export price policy becomes fully operative.

There are included in agreements signed to date, approximately 158 million bushels of wheat, 57 million bushels of feed grains, 10 million hundredweight of rice, 1.7 million bales of cotton, 124 million pounds of tobacco, 1 billion pounds of fats and oils, 90 million pounds of dairy products, 82 million pounds of fruit and vegetables, 75 million pounds of meat products, and other commodities.

These commodities are paid for by foreign countries in their own currencies. Payments are based on United States export prices rather than on CCC investment and costs. For example, wheat might cost a foreign buyer $1.70 per bushel but the CCC investment in the wheat could be as much as $3.10 per bushel. On this basis the total foreign currency payments due the United States Government under agreements signed to date total $1,041 million.

About 31.4 percent of this total will be used for purposes directly beneficial to the United States, including the payment of our obliga-

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tions that would otherwise be paid in dollars, the purchase of strategic materials, financing of agricultural market development programs abroad, and financing international educational exchange programs.

About $73 million worth of foreign currency has been programed to construct United States military family housing abroad. Construction is well advanced in the United Kingdom on 1,500 units which will cost $15 million, and these are expected to be completed by the end of the current year. The Defense Department will reimburse the Commodity Credit Corporation for the cost of the housing from its quarters allowances. Other countries in which military family housing will be erected include Spain, Japan, French Morocco, Greece, Libya, and Italy.

Funds in this category are being used to pay United States military base construction costs in Turkey, Spain, and other countries. They are also being used to pay United States Embassy costs in many countries. These uses return dollars to the Commodity Credit Corporation.

A total of about $19 million in foreign currency has been obligated for agricultural market development projects in 24 countries. These are projects designed to promote increased use of our agricultural commodities. Projects undertaken in this area include a cotton promotion program in cooperation with the National Cotton Council, tobacco promotion with three United States associations, wheat promotion with the Oregon Wheat League, etc. Private cooperating United States and foreign-trade groups are making financial contributions to these programs.

About 2.3 percent of the proceeds is being used to purchase goods for third countries. These purchases generally supplement those which are possible with United States foreign-aid funds. However, if the goods are donated to the third country, the CCC will be reimbursed from foreign-aid funds.

About 16.7 percent is being used on a grant basis to build up the armed strength of such countries as Korea, Pakistan, and Iran. In most cases, if these grants were not made, it would be necessary to increase appropriations for military aid.

About 0.7 percent of the total proceeds is being used as a grant for economic development. The grant has been made in only one case—Greece, which had a very serious earthquake in April of 1955. In order to show the expression of sympathy of all the people of the United States for those who suffered from this catastrophe, the United States Government agreed that $7.5 million worth of drachmas are to be used to help finance rebuilding and repair of housing in the devastated areas.

About 48.9 percent of the total proceeds of $1,041 million is scheduled to be loaned to recipient countries to promote multilateral trade and economic development. Up to this time loan agreements have been concluded with 7 countries providing for local currency loans equivalent to about $105 million. Additional loan agreements are being negotiated. The loans are made for periods of 10 to 40 years, and are usually denominated in dollars in order to protect the United States against devaluation of the currencies. The loans may be repaid in strategic materials, services, foreign currencies or dollars. In the event the foreign country elects to repay in its own currencies, these may be used to meet any expenses of the United States Government in the country.

The following tables show in detail the agreements which have been made under title I of Public Law 480, the value and the quantity of the commodities involved in sales for foreign currency, and the planned use of the currencies obtained from such sales.

TABLE I.—*Agreements signed from beginning of program*

[In thousands of dollars]

Country	Date signed	Market value excluding ocean transportation	Ocean transportation	CCC cost, including ocean transportation
1. Turkey	Nov. 15, 1954	$18,917	$5,517	$35,086
2. Yugoslavia	Jan. 5, 1955	37,990	6,214	66,013
3. Pakistan	Jan. 8, 1955	28,084	1,316	39,082
4. Chile	Jan. 27, 1955	4,600	407	7,686
5. Peru	Feb. 7, 1955	3,250	380	6,255
6. Spain	Apr. 20, 1955	19,316	1,684	25,009
7. Argentina	Apr. 25, 1955	5,670	130	8,721
8. Turkey (amendment)	Apr. 28, 1955	4,144	427	6,121
9. Israel	Apr. 29, 1955	7,848	822	13,255
10. Finland	May 6, 1955	5,114	126	5,250
11. Yugoslavia (amendment)	May 12, 1955	6,523	1,309	13,384
12. Italy	May 23, 1955	48,200	1,800	71,708
13. Japan	May 31, 1955	79,026	5,974	111,266
14. Korea	do	14,015	985	15,000
15. United Kingdom	June 7, 1955	15,000	205	15,205
16. Austria	June 14, 1955	5,500	584	8,256
17. Israel (amendment)	June 15, 1955	3,652	678	7,312
18. Thailand	June 21, 1955	1,900	100	2,000
19. Colombia	June 23, 1955	4,900	400	7,072
20. Greece	June 24, 1955	5,400	647	8,665
21. Do	do	7,573	772	12,711
22. Peru (amendment)	June 25, 1955	3,400	400	6,259
Subtotal as of June 30, 1955		330,022	30,887	491,321
23. France	Aug. 11, 1955	650	0	650
24. Peru (amendment)	Sept. 20, 1955	3,000	320	3,320
25. Yugoslavia (amendment)	Oct. 1, 1955	17,900	4,260	42,168
26. Ecuador	Oct. 7, 1955	3,750	270	5,280
27. Spain (amendment)	Oct. 20, 1955	10,000	622	10,622
28. Israel	Nov. 10, 1955	14,740	2,300	26,868
29. Brazil	Nov. 16, 1955	37,150	4,680	77,955
30. Egypt	Dec. 14, 1955	4,818	782	10,682
31. Colombia	Dec. 20, 1955	10,900	700	17,054
32. Argentina	Dec. 21, 1955	24,700	600	25,300
33. Germany	Dec. 23, 1955	1,200	0	1,200
34. Finland (amendment)	Jan. 12, 1956	500	50	980
35. Yugoslavia (amendment)	Jan. 19, 1956	42,600	6,400	77,869
36. Spain (amendment)	Jan. 21, 1956	15,000	1,100	16,100
37. Israel (amendment)	Jan. 31, 1956	900	0	1,760
38. Austria	Feb. 7, 1956	20,800	1,650	33,515
39. Burma	Feb. 8, 1956	20,800	900	31,200
40. Egypt (amendment)	do	4,900	700	11,216
41. Israel (amendment)	Feb. 10, 1956	10,000	0	10,000
42. Egypt (amendment)	Feb. 17, 1956	7,348	1,052	16,825
43. Greece (amendment)	do	5,867	233	6,100
44. Iran	Feb. 20, 1956	11,300	916	19,938
45. Pakistan	Mar. 2, 1956	15,000	1,900	30,746
46. Indonesia	do	91,800	4,900	152,969
47. Spain	Mar. 5, 1956	60,000	4,800	79,096
48. Turkey	Mar. 12, 1956	3,700	300	4,000
49. Korea	Mar. 13, 1956	39,700	4,100	59,674
50. Chile	do	32,500	2,100	45,437
51. Spanish-Swiss	Mar. 20, 1956	4,607	393	9,430
52. Finland (amendment)	Mar. 26, 1956	12,100	1,000	18,702
53. Finland (amendment)	Apr. 26, 1956	2,900	465	6,718
54. Paraguay	May 2, 1956	2,600	400	5,170
55. Peru	May 7, 1956	2,470	310	5,420
56. Turkey (amendment)	May 11, 1956	9,700	1,400	20,200
57. Portugal	May 24, 1956	6,300	800	13,400
58. Japan	Feb. 10, 1956[1]	59,900	5,900	108,300
59. United Kingdom	June 5, 1956	12,000		12,000
Subtotal, July 1, 1955, through June 5, 1956		624,100	56,300	1,017,864
Total, all agreements signed through June 5, 1956		954,122	87,190	1,509,185
Estimated shortfall				47,000
Estimated net obligation				1,462,185

[1] Effective May 29, 1956.

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TABLE II.—*Commodity composition of programs under title I, Public Law 480 agreements signed through June 5, 1956*

[In millions of dollars]

Country	Wheat	Feed grains	Rice	Cotton	Tobacco	Dairy products	Fats and oils	Other	Market value	Ocean transportation	Market value including overseas transportation [1]	CCC cost including overseas transportation [1]
Argentina							30.4		30.4	0.7	31.1	34.0
Austria	3.4	10.6		6.1	3.5		2.4	[2] 0.3	26.3	2.2	28.5	41.8
Brazil	32.1	3.0			.2		1.8		37.1	4.7	41.8	78.0
Burma				17.5	1.1	2.0		[3] .2	20.8	.9	21.7	31.2
Chile	8.4			5.3	.2	1.0	16.0	[3] 6.2	37.1	2.5	39.6	53.1
Colombia	5.0			7.6		.7	2.5		15.8	1.1	16.9	24.1
Ecuador	1.1			.9	.2		1.5		3.7	.3	4.0	5.3
Egypt	17.1								17.1	2.5	19.6	38.7
Finland	6.0	1.1		5.8	6.0	.5		[3] 1.2	20.6	1.7	22.3	31.6
France					.7				.7		.7	.7
Germany								[4] 1.2	1.2		1.2	1.2
Greece	6.0	2.4				2.5	8.0		18.9	1.6	20.5	27.5
Indonesia	5.0		35.8	36.0	15.0				91.8	4.9	96.7	153.0
Iran	3.9					6.0	1.4		11.3	.9	12.2	19.9
Israel	11.1	6.4	.1	2.6	.4	3.3	2.9	[5] 10.3	37.1	3.8	40.9	59.2
Italy	1.6	3.0		35.9	3.2		4.5		48.2	1.8	50.0	71.7
Japan	49.7	14.3	14.4	52.8	7.7				138.9	11.9	150.8	219.5
Korea	6.4	11.5		17.2	6.6	1.0	3.0	[6] 8.0	53.7	5.1	58.8	74.7
Pakistan			15.0	21.5	3.3	2.3	1.0		43.1	3.2	46.3	69.8
Paraguay	1.7					.4	.5		2.6	.4	3.0	5.2
Peru	8.9					.2	3.0		12.1	1.4	13.5	21.2
Portugal	6.3								6.3	.8	7.1	13.4
Spain	[7] 4.6	5.7		33.2	4.2		58.5	[4] 2.7	108.9	8.6	117.5	140.2
Thailand					1.9				1.9	.1	2.0	2.0
Turkey	13.4	12.7	1.4				8.9		36.4	7.7	44.1	65.4
United Kingdom					27.0				27.0	.2	27.2	27.2
Yugoslavia	76.1			18.1			10.8		105.0	18.1	123.1	199.4
Total agreements	267.8	70.7	66.7	260.5	81.2	19.9	157.1	30.1	954.0	87.1	1,041.1	1,509.0
Estimated shortfall												47.0
Estimated net obligation												1,462.0

[1] Includes only ocean transportation to be financed by CCC.
[2] Fruit.
[3] Hay and pasture seeds, $2,500,000; frozen beef, $3,700,000.
[4] Poultry.
[5] Dry edible beans, $300,000; chilled or frozen beef, $10,000,000.
[6] Canned pork.
[7] Wheat to be sold to Spain for resale to Switzerland for financing procurement of Swiss goods by Spain.
[8] Hams, $1,000,000; potatoes, $1,400,000; cotton linters, $300,000.

TABLE III.—*Approximate quantities of commodities under agreements signed through June 5, 1956, title I, Public Law 480*

TABLE III.—*Approximate quantities of commodities under agreements signed through June 5, 1956, title I, Public Law 480*

Country	Wheat (1,000 bushels)	Feed grains (1,000 bushels) [1]	Rice (1,000 hundredweight)	Cotton (1,000 bales) [2]	Tobacco (1,000 pounds)	Dairy products (1,000 pounds) [3]	Fats and oils (1,000 pounds) [4]	Poultry (1,000 pounds)	Dry edible beans (1,000 hundredweight)	Fruit and vegetables (1,000 pounds)	Meat (1,000 pounds)	Hay and pasture seeds (1,000 hundredweight)
Argentina							220,000					
Austria	2,025	7,091		42.5	5,900		[5] 16,552			[5] 2,084		
Brazil	18,995	2,205			100		[5] 11,000					
Burma				125.0	1,500	14,385				[6] 2,350		
Chile	4,927			37.6	300	9,900	[5] 105,562				[7] 13,214	55
Colombia	2,612			48.3		3,307	14,141					
Ecuador	560			6.6	323		13,629					
Egypt	10,329											
Finland	3,557	750		36.1	9,990	1,163				[6] 11,000		
France					867							
Germany								3,000				
Greece	3,479	2,366				21,264	44,986					
Indonesia	2,594		5,516	257.2	23,000							
Iran	2,120					11,708	5,773					
Israel	6,426	6,082	7	15.5	550	10,793	18,450		37		[7] 40,000	
Italy	948	1,923		253.8	4,000		33,322					
Japan	30,754	12,227	2,111	308.6	9,629							
Korea	4,122	10,000		102.7	14,000	10,000	20,000				[7] 21,000	
Pakistan			2,300	141.3	3,650	4,000	8,274					
Paraguay	990					3,086	[5] 3,105					
Peru	5,040					621	22,000					
Portugal	3,753											
Spain	[8] 2,446	3,594		[8] 239.6	7,573		[5] 340,293			[6] 66,667	[7] 1,640	
Thailand					2,700							
Turkey	7,784	10,532	215				59,957					
United Kingdom					99,489							
Yugoslavia	44,120			114.4			87,964					
Total agreements	157,881	56,770	10,149	1,729.2	123,571	90,227	1,025,008	3,000	37	82,101	75,854	55

See footnotes, p. 8.

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TABLE III.—*Approximate quantities of commodities under agreements signed through June 5, 1956, title I Public Law 480*—Continued

[1] Note following:

	Thousand bushels
Corn	18,662
Oats	4,751
Barley	27,562
Grain sorghums	5,795
Total	56,770

[2] Includes 16,700 bales cotton linters for Spain.

[3] Note following:

	Thousand pounds
Nonfat dry milk	36,219
Evaporated milk	23,535
Butter	11,367
Cheese	2,679
Butter oil and/or ghee	10,426
Ghee	4,000
Whey	2,001
Total	90,227

[4] Note following:

	Thousand pounds
Cottonseed oil	202,781
Cottonseed oil and/or soybean oil	302,463
Cottonseed oil, soybean oil and/or lard	344,194
Linseed oil	8,800
Lard	131,014
Tallow and/or grease	35,756
Total	1,025,008

[5] Entire quantity shown for country is lard except Chile, Paraguay, and Spain which includes lard as follows:

	Thousand pounds
Chile	3,357
Paraguay	1,279
Spain	10,862

[6] Austria, canned fruit and fruit juices, 450,000 pounds; dried fruit, 1,634,000 pounds; Burma, dried fruit; Finland, dried fruit; Spain, potatoes.

[7] Israel and Chile, chilled or frozen beef; Korea, canned pork; Spain, canned hams.

[8] Wheat to be sold to Spain for resale to Switzerland for financing procurement of Swiss goods by Spain.

TABLE IV.—*Planned uses of foreign currency under title I, Public Law 480 agreements signed through June 5, 1956* [1]

[In millions of dollars]

Country	Total amount programed (market value including overseas transportation)	Market development (104a)	Purchase of strategic material (104b)	Payment of United States obligations (104f) [2]	International education exchange (104h)	Total United States uses (104a, b, f, (and h) [2]	Military procurement (104c)	Purchase of goods for other countries (104d)	Grants for multiple trade and economic development (104e)	Loans for multiple trade and economic development (104g)
Argentina	$31.1	$0.5		$8.9	$0.7	$10.1		$1.0		$20.0
Austria	[3] 28.5	.7	$0.8	8.5	.2	10.2		2.0		16.0
Brazil	[3] 41.8	.7	2.8	5.5	.9	9.9				31.3
Burma	21.7			21.7		21.7				
Chile	39.6	.8		6.5	.6	7.9				31.7
Colombia	16.9	.8	1.0	4.1	.5	6.4		.5		10.0
Ecuador	4.0	.2		.5	.2	.9				3.1
Egypt	19.6	1.0		2.0	1.0	4.0		2.0		13.6
Finland	22.3	.2		21.8	.3	22.3				
France	.7	.6		.1		.7				
Germany	1.2	1.1		.1		1.2				
Greece	[3] 20.5	.5		3.9		4.4			$7.5	8.5
Indonesia	96.7	1.0	2.0	16.0	.3	19.3				77.4
Iran	[3] 12.2	.2		3.3	.2	3.7	$5.9			2.5
Israel	40.9	.4		8.2	.4	9.0		3.1		28.8
Italy	50.0	1.7	1.0	12.7		15.4		4.6		30.0
Japan	150.8	3.3		17.6	2.1	23.0	8.1	10.9		108.8
Korea	58.8	.5		12.9		13.4	45.4			
Pakistan	46.3	1.6		6.3		7.9	25.9			12.5
Paraguay	3.0	.2		.5	.1	.8				2.2
Peru	13.5	.7		2.5	.6	3.8				9.7
Portugal	7.1	.3		2.9	.5	3.7				3.4
Spain	117.5	2.0	1.0	46.2	1.0	50.2				67.3
Thailand	2.0	.2		1.0		1.3				.8
Turkey	44.1	.7		21.4		22.1				22.0
United Kingdom	27.2			27.2		27.2				
Yugoslavia	123.1	.3		25.1		25.4	88.7			9.0
Total agreements	[3] 1,041.1	20.2	8.6	287.4	9.6	325.8	174.0	24.1	7.5	508.6
Uses as percent of total	100.0	2.0	.8	27.6	.9	31.3	16.7	2.3	.7	48.9

[1] Amounts shown on this table are subject to adjustment when actual purchases have been made.

[2] In order to provide flexibility in the use of funds for United States uses, many agreements provide a total amount to be distributed among the several United States uses. In such instances amounts shown under subsecs. (*a*), (*b*), and (*h*) are the best information available in regard to uses or contemplated uses under these subsections. Balances not otherwise distributed are shown under subsec. (*f*). This distribution is subject to revision when allocations have been completed.

[3] Total amount shown for the following countries includes amounts in excess of amounts provided in agreements, for which currency uses have not been specified:

	Thousand dollars
Austria	$335
Brazil	610
Greece	92
Iran	116
Total	1,153

These unspecified uses represent 0.1 percent of total currency uses.

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DEPARTMENTAL VIEWS

DEPARTMENT OF AGRICULTURE.
Washington, D. C., May 17, 1956.

The PRESIDENT OF THE SENATE,
United States Senate.

DEAR MR. PRESIDENT: There is enclosed a proposed form of bill to amend title I of Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, as amended.

The enclosed form of bill would increase the maximum amount authorized to be appropriated to reimburse the Commodity Credit Corporation for commodities disposed of and costs incurred, under title I of the act, from $1.5 billion to $3 billion.

Enactment of legislation to accomplish this purpose is recommended in order to permit orderly programing during the fiscal year 1957.

Since the inception of the title I program, agreements entered into involve a CCC cost of approximately $1.258 billion. There is reasonable certainty of exhausting the existing authorization of $1.5 billion within the next 2 months through signature of agreements now in negotiation. It is probable that if funds are available, total programing through the fiscal year will exceed $1.5 billion.

On the basis of experience during the first 2 years under the act, it is anticipated that the programing for the fiscal year 1957, would proceed at about the same rate as programing has taken place in fiscal year 1956. This would require between $700 and $800 million for agreements entered into on a 1-year basis, plus the amount for first year's deliveries under 2- and 3-year programs. Prospects for the negotiation of agreements which would cover deliveries over periods of 2 and 3 years are good, and past experience under the program indicates that such agreements would be desirable. Taking into account the possibilities of forward programing, it is believed that agreements which we might expect to enter into by June 30, 1957, would bring the total of the program on the basis of CCC cost, since the beginning of operations, to approximately $3 billion.

The proposed bill would further amend the act in two respects. It would amend section 104 (h) so as to permit the use of title I currencies in rendering assistance to American sponsored schools and binational centers provided for under the so-called Smith-Mundt Act. It would repeal section 304 of the act, which would permit the bartering of agricultural commodities with Soviet bloc countries but not sales for foreign currencies to such countries.

The Bureau of the Budget advises that there is no objection to the submission of this recommendation.

Sincerely,

E. T. BENSON, *Secretary.*

DEPARTMENT OF STATE,
Washington, May 31, 1956.

Hon. ALLEN J. ELLENDER, Sr.,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: The Department of State wishes to support the recommendation of the Department of Agriculture that title I of Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, as amended, be further amended as indicated by the draft form of bill enclosed with the Department of Agriculture's letter of May 17, 1956, to the Speaker of the House of Representatives.

The Department wishes in particular to stress the foreign policy advantages which may be expected to flow from the enactment of sections 2 and 3 of the proposed bill.

Section 2 would amend section 104 (h) of the act by inserting the following language immediately before the period at the end of the section:

> and for the providing of assistance to activities and projects authorized by section 203 of the United States Information and Educational Exchange Act of 1948, as amended (22 U. S. C. 1448)

This would permit the use of local currencies generated by sales of surplus agricultural commodities to assist American-sponsored schools located in a number of different countries. These schools, which have been founded and supported by the cooperative efforts of United States citizens and foreign nationals, constitute an important American influence because they train so many of the future national leaders of the countries in which they are located and of neighboring countries. They are often regarded as models by the local schools, and their methods are widely copied. However, their budgets are inadequate, with resultant limitation of their physical capacities and inability to hire a sufficient number of qualified teachers from the United States. Public Law 480 funds could do much to correct these deficiencies.

Section 3 would repeal section 304 of the act, thus authorizing greater flexibility in making trade offers involving the disposal of surplus agricultural commodities to the Soviet bloc. The Department of State supports repeal of section 304 because we are convinced that we should, as the President indicated in his agricultural message of January 9, 1956, place ourselves in a position to take advantage of any opportunities clearly to our interest which may develop in the future to find markets in such countries for agricultural products.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Acting Secretary of State).

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

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AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

TITLE I—SALES FOR FOREIGN CURRENCY

* * * * * * *

SEC. 103. * * *

(b) Transactions shall not be carried out under this title which will call for appropriations to reimburse the Commodity Credit Corporation, pursuant to subsection (a) of this section, in amounts in excess of [$1,500,000,000] *$3,000,000,000*. This limitation shall not be apportioned by year or by country, but shall be considered as an objective as well as a limitation, to be reached as rapidly as possible so long as the purposes of this Act can be achieved within the safeguards established.

SEC. 104. Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, the President may use or enter into agreements with friendly nations or organizations of nations to use the foreign currencies which accrue under this title for one or more of the following purposes:

* * * * * * *

(h) For the financing of international educational exchange activities under the programs authorized by section 32 (b) (2) of the Surplus Property Act of 1944, as amended (50 U. S. C. App. 1641 (b)) *and for the providing of assistance to activities and projects authorized by section 203 of the United States Information and Educational Exchange Act of 1948, as amended (22 U. S. C. 1448)*.

* * * * * * *

TITLE III—GENERAL PROVISIONS

* * * * * * *

SEC. 304. (*a*) The President shall exercise the authority contained [herein] *in title I of this Act* (1) to assist friendly nations to be independent of trade with the U. S. S. R. [or] *and with* nations dominated or controlled by the U. S. S. R. [for food, raw materials and markets,] and (2) to assure that agricultural commodities sold or transferred [hereunder] *thereunder* do not result in increased availability of those or like commodities to unfriendly nations.

(*b*) *Nothing in this Act shall be construed as authorizing transactions under title I or title III with the Union of Soviet Socialist Republics or Communist China or North Korea.*

(SEC. 4 makes the following acts inapplicable to sales of fruit and fruit products from private stocks under title I of Public Law 480.)

ACT OF MARCH 26, 1934, AS AMENDED

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that in any loans made by the Reconstruction Finance Corporation or any other instrumentality of the Government to foster the exporting of agricultural or other products, provision shall be made that such products shall be carried exclusively in vessels of the United States, unless, as to any or all of such products, the United States Maritime

Commission, after investigation, shall certify to the Reconstruction Finance Corporation or any other instrumentality of the Government that vessels of the United States are not available in sufficient numbers, or in sufficient tonnage capacity, or on necessary sailing schedule, or at reasonable rates.

SECTION 901 (b) OF THE MERCHANT MARINE ACT OF 1936, AS AMENDED (ADDED BY THE ACT OF AUGUST 26, 1954)

(b) Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided*, That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of section 901 (b) and so notifies the appropriate agency or agencies: *And provided further*, That the provisions of this subsection shall not apply to cargoes carried in the vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500), as amended.

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Calendar No. 2314

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2291

HIGHWAY POST OFFICE SERVICE ACT OF 1955

JUNE 22, 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 2634]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 2634) relating to the transportation of mail by highway post office service, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

The amendments are as follows:

No. 1. Section 4 (c), line 25, page 2, add the following sentence:

> Each such contract shall contain a provision providing for its cancellation by the Postmaster General and may provide for an indemnity payment by the Postmaster General in the event of such cancellation.

No. 2. Page 4, line 1, strike out the word "provide" and insert the words "contract for" in lieu thereof.

PURPOSE OF AMENDMENTS

The purpose of Amendments No. 1 is to require that each contract contain a cancellation provision and to authorize the Postmaster General to make proper indemnity settlement in the event of such cancellation.

The purpose of Amendment No. 2 is to clarify the intent of section 6.

The two amendments meet with the approval of the Post Office Department.

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STATEMENT

The purpose of this legislation is to enable the Post Office Department to make improvements in the highway post office service and effect economies in operation.

At the present time, the highway post office service is operated, with few exceptions, under the provisions of law applicable to star routes. Star route service is contract service for moving mail over the highways. Star route contractors carry mail in passenger vehicles and trucks of various sizes depending on the amount of mail. They may even use standard production line vehicles. Some star routes contracts are for routes not over 10 miles long with compensation as low as $300 to $400 per year.

In comparison, the highway post office service is analogous to railway post offices, with mails received at one post office being sorted en route for the various other post office stops made by the highway post office. A single highway post office vehicle costs approximately $20,000, and from 2 to 12 vehicles are necessary for successful operations under a contract. Further, the smallest highway post office contract is for 194 miles of service per day at an annual rate of compensation of $19,000 per year.

It is comparatively easy for an individual to raise the necessary funds to purchase a standard vehicle to operate a star route. However, it is generally difficult for an individual to purchase the vehicles necessary in highway post office service, and this difficulty is increased by the fact that each contractor must have at least 2 such vehicles, 1 for normal operation and 1 as a standby vehicle.

The law under which the highway post office service is operated was enacted in 1940 and provides that the Postmaster General may enter into contracts for this service for periods of no less than 2 nor more than 4 years. Except for this provision the highway post office service is operated under the star route laws. This law was unchanged until 1954, when Congress removed the limitation which prevented the establishment of this service except when adequate railroad facilities were not available. Since 1940, the Post Office Department has established 152 highway post office routes, which at the present time are being operated under 67 contracts with private concerns. Experience has indicated that it is more economical to provide this service by contract than by Government-owned vehicles.

There are three provisions of the star routes law, applicable to the highway post office service, which prevent expeditious postal service at the least possible cost:

(1) The bidder must be a legal resident of the county or counties or of a county adjoining through which the route operates.

(2) Every bid for a contract for carrying mail must be accompanied by a bond that guarantees execution of the contract and performance as well. This legislation will permit simplification of these bonding procedures in line with other forms of contracting.

(3) The star route laws provide that routes under contract may be extended up to 50 additional miles if the Postmaster General finds that the mail service will be improved by such an extension. However, the additional compensation shall not exceed pro rata additional pay. In most cases the extension becomes a part of the service already under contract, so inseparable as to render it impracticable to have the service performed by other than the original contractor.

To correct the impact of the above provisions, this legislation divorces the highway post office service from the star route laws. It eliminates discrimination against bidders because of residence. It requires that the Postmaster General obtain contracts in accordance with section 3709 of the Revised Statutes as amended (14 U. S. C. 5), the general advertising statute which requires advertising for bids. It authorizes contracts for terms not exceeding 6 years, thus permitting the bidder to spread his initial cost over 6 years rather than 4. In addition, it provides that the Postmaster General shall require such bond or bonds as he may consider necessary to protect the interests of the Government. It further provides that the Postmaster General may increase or decrease mileage and price by appropriate provisions in the contract.

HEARINGS

Hearings were held on this bill on June 13, 1955, at which the Post Office Department, representatives of the postal employees concerned and representatives of a number of trucking associations all testified favorably. There were no witnesses in opposition to the measure.

REPORTS ON THE BILL

This legislation was recommended by the Postmaster General and has the approval of the Bureau of the Budget. The letter of the Postmaster General to the President of the Senate follows:

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., July 14, 1955.

Hon. RICHARD M. NIXON,
President of the United States Senate.

DEAR MR. PRESIDENT: There is transmitted herewith a bill relating to the transportation of mail by highway post office service, and for other purposes.

The act of July 11, 1940 (54 Stat. 756) authorized the Postmaster General to establish what is now known as the highway post office service. This basic law provides that the Postmaster General may contract for the carrying of mail and postal employees to service such mail in motor vehicles on routes between points where, in the judgment of the Postmaster General, such services warrant it. It further provides that this service may, at the election of the Postmaster General, be conducted in Government-owned equipment. The vehicles used in this service must be constructed in the manner directed by the Postmaster General and must be so fitted and equipped as to make it possible to distribute the mail en route. Contracts for this service may be made for periods of not less than 2 nor more than 4 years. All laws and regulations governing star route service which are not in conflict with this basic law are made applicable to highway post office service contracts.

Legislation to establish experimental highway post office service was first considered by the Congress in 1938. The 75th Congress adopted House Joint Resolution 663 which provided for the operation of the Peru and Indianapolis railway post office by motor vehicle over the public highways. The resolution was vetoed by the President. In his veto message he stated "It is recognized that with the curtailment of train service on many trunklines and the widespread aban-

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donment of train service on all branch lines we are approaching the time when consideration must be given to the type of service proposed in the resolution, but it is believed that the authorization should be general and that the Post Office Department should be left free to select the routes on which the experimental service shall be inaugurated."

In the 76th Congress there was introduced as H. R. 6424, a bill to provide for the transportation and distribution of mail by motor vehicles. This bill was passed by the Congress and approved by the President on July 11, 1940. The law remained unchanged until 1954 when it was amended by striking the limitation which prevented the inauguration of highway post office service except when adequate railroad facilities were not available. This amendment was proposed by the Post Office Department as a part of its program to improve the highway post office service.

At the time H. R. 6424 was considered in 1939 the highway post office service was looked upon as an experimental service. The report of the Committee on Post Offices and Post Roads (Rept. No. 1806, 76th Cong., 3d sess.), contains the following statement:

"Thus, the present proposed legislation seeks to meet the objection of the President as pointed out in the veto message in granting general authorization to the Postmaster General to make determination as to where experimental routes shall be established."

The bill, H. R. 6424, made all laws and regulations governing the star route service applicable to this new experimental service. While the legislative history is silent on the reason for making these star route laws applicable to the new service, it would appear that it was believed that special provisions should not be provided for the service until such time as it was shown that the experiment was a success.

The Department inaugurated the highway post office service soon after July 11, 1940, and since that time has established 140 highway post office routes. Nineteen of these routes are presently being conducted in Government-owned vehicles, and 121 are conducted by private contractors. Experience gained during these years has indicated that it is more economical to provide this service by contract rather than in Government-owned vehicles. However, because of certain provisions of the star route law, the Department is unable to get the competition among bidders which is so essential if economies are to be effected.

The attached bill will divorce the highway post office service from the star route laws. The highway post office service has emerged from the experimental stage and is now an important part of the transportation and delivery service of the Department. It is time that the service is set up under laws specifically applicable to it, laws which are best calculated to permit improvements in the service and at the same time effect economies in operation.

The bill transmitted herewith will require that the Postmaster General obtain contracts for this service in accordance with the provisions of section 3709 of the Revised Statutes as amended, title 41 United States Code, section 5. Section 5 of title 41, United States Code is the general advertising statute under which contracts for services or supplies must be obtained. It requires that contracts for supplies and services for the Government may be entered into only after advertising for bids. This provision will assure that no regular contract will be obtained without competitive bidding.

The bill also will eliminate any discrimination against bidders because of residence. The present star route law requires that no proposal for a contract for star route service shall be considered unless the bidder is a legal resident of the county or counties traversed by the roads over which the mails are to be carried, or a resident within counties adjoining such county or counties. Exception is made, however, for firms, companies or corporations, and it is required only that they be actually engaged in business within the counties in which the service is to be conducted. This requirement in the star route laws was designed, among other things, to put the star route service in the hands of local residents. The highway post office service, however, an entirely different type of operation than the star route service, cannot be successfully operated under this restriction. The vehicles necessarily required in the highway post office service are specially constructed and specially fitted vehicles. Their cost is substantial. It is generally required that the contractor have at least 1 vehicle for each segment of the route and, in addition, 1 standby vehicle. Because of the substantial initial investment required to be made by a contractor, the service is not always attractive to local residents meeting the residential requirements of the star route laws. The Department should be permitted to advertise and not discriminate against bidders who are not residents of the counties through which the route is to be operated, or who are not actually doing business in those counties at the time the bids are made.

The bill will also authorize contracts for terms not exceeding 6 years. The present star-route laws restrict contracts to terms not exceeding 4 years. It is believed that annual contract rates for highway post-office service may be reduced by extending the term to 6 years. Extension of the term from 4 to 6 years will permit a bidder to spread his initial cost over 6 years rather than 4 years.

The bill provides further that the Postmaster General shall require such bond or bonds as he may consider necessary to protect the interests of the Government.

The bill also provides for emergency situations. Where there is no contractor legally bound or required to perform the service desired, or when an accepted bidder has failed to enter into his proposed contract, or having entered into a contract refuses to perform, the Postmaster General, without advertising, may provide the service desired for a term of not to exceed 1 year.

Because some of the provisions of the star route laws are desirable in an operation of this type, sections 4 and 5 of the proposed bill reenact as a part of the highway post office law certain of the provisions of the star route laws.

It is believed that enactment of this legislation will materially assist the Department in effecting economies in the operation of the highway post office service and at the same time improve that service.

Its early enactment is recommended.

The Bureau of the Budget has advised that there would be no objection to the submission of this legislation to the Congress.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

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CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black bracket):

SECTIONS 1 AND 2 OF THE ACT OF JULY 11, 1940, ENTITLED "AN ACT TO PROVIDE FOR THE TRANSPORTATION AND DISTRIBUTION OF MAILS ON MOTOR-VEHICLE ROUTES"

SEC. 1. [Wherever it is found that adequate railroad facilities are not available, the Postmaster General is authorized to contract for carrying the mails and railway postal clerks on routes between points where, in his judgment, the conditions justify the operation of such service in motor vehicles especially designed and equipped for the distribution of mail en route: *Provided*, That such vehicles shall be constructed, fitted up, maintained, and operated in accordance with such specifications, rules, and regulations as he may prescribe: *Provided further*, That the Postmaster General is authorized, within his discretion, to transport and provide for the disribution of mails in Government-owned motor vehicles on such routes between points where in his judgment the conditions justify the operation of such service: *Provided further*, That all laws and regulations governing Star Route Service, not in conflict with sections 505–508 of this title, shall be applicable to contracts made under the authority of said sections; *And provided further*, That no contract shall be awarded for a period of less than two years nor in excess of four years, and that payment for such service shall be from the appropriations for inland transportation by star routes.]

SEC. 2. [The Postmaster General may, in his discretion, and in the interest of the Postal Service, and under such rules and regulations as he may prescribe, provide for the distribution of mail on motor-vehicle routes in motor vehicles specially designed and equipped for that purpose and provided for in section 505 of this title: *Provided*, That the supervision and distribution of mails in motor-vehicle service, as herein provided, shall be under the jurisdiction of the Second Assistant Postmaster General, and the personnel therein shall be a part of the Railway Mail Service under the same working conditions, rates of pay, travel allowance, and other benefits applicable to railway postal clerks: *And provied further*, That payment for such service shall be from the appropriations for Railway Mail Service salaries and railway postal clerks' travel allowance.]

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Calendar No. 2315

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2292

CLAIMS OF VATICAN CITY FOR LOSSES AND DAMAGES CAUSED BY UNITED STATES ARMED FORCES DURING WORLD WAR II

JUNE 22, 1956.—Ordered to be printed

Mr. GEORGE, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany H. R. 10766]

The Committee on Foreign Relations, having had under consideration H. R. 10766, to authorize the payment of compensation for certain losses and damages caused by United States Armed Forces during World War II, report the same to the Senate and recommend that it do pass.

PURPOSE

The purpose of the bill is to authorize the Secretary of the Treasury to pay the sum of $964,199.35 in full and final settlement of all claims of the Vatican City for losses and damages caused by United States Armed Forces in the Papal Domain Castel Gandolfo during World War II. The same amount is authorized to be appropriated for that purpose.

BACKGROUND

Castel Gandolfo was accidentally damaged on February 2, 10, May 31, and June 4, 1944, by bombs dropped from United States planes in raids on nearby military targets. The Foreign Relations Committee once considered this claim in overall legislation submitted by the Department of State in 1947. At that time the committee reported a bill (S. 1605, 80th Cong.) which would have covered the claim but sentiment developed in the Senate to provide only for adjudicated claims. Since the Vatican claims were still under investigation they were dropped from the bill. On December 19, 1948, the Vatican presented the United States with a claim for $1,523,810.98 in damages. However, the United States Army Claims Service determined through a survey that a reasonable assessment would be $964,199.35 which is the amount contained in the House bill.

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EXECUTIVE BRANCH COMMENTS

The position of the Department of State is set forth in a letter from the Hon. Robert C. Hill, Assistant Secretary of State to the chairman of the committee, which is reprinted below.

JUNE 11, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR SENATOR GEORGE: Reference is made to your letter of June 7, 1956, concerning H. R. 10766, a bill to authorize the payment of compensation for certain losses and damages caused by United States Armed Forces during World War II.

On July 10, 1943, the Italian campaign then being imminent, President Roosevelt sent a message to Pope Pius XII, the first two paragraphs of which read as follows:

"By the time this message reaches Your Holiness a landing in force of American and British troops will have taken place on Italian soil. Our soldiers have come to rid Italy of fascism and all its unhappy symbols, and to drive out the Nazi oppressors who are infesting her soil.

"There is no need for me to reaffirm that respect for religious beliefs and for the free exercise of religious worship is fundamental to our ideas. Churches and religious institutions will, to the extent that it is within our power, be spared the devastations of war during the struggle ahead Throughout the period of operations the neutral status of the Vatican City as well as of the Papal Domains throughout Italy will be respected."

In the course of hostilities against German armed forces, the Papal Domain Castel Gandolfo was accidentally damaged on February 2, 10, May 31, and June 4, 1944, by bombs dropped from United States planes during attacks upon legitimate military targets in close proximity thereto.

Communications addressed to the Department of State by the apostolic delegate in Washington following the first of the incidents indicate that Vatican authorities considered that such incidents constituted, in the light of President Roosevelt's message, violations of the "neutrality of Vatican property." On February 4, 1944, the Department, in reply to one of these communications, said in part as follows:

"* * * the policy of this Government with respect to Papal property in Italy as declared by the President in his letter to the Pope last July remains as expressed therein and Allied forces have instructions to carry out that policy to the extent that is humanly possible under conditions of modern warfare."

The Department does not believe that the United States correspondence with the Vatican on this subject can properly be regarded as committing the United States to legal liability for damage caused by accidental bombings. Lack of a legal basis for the Vatican claim is further shown by the provisions of the Lateran Treaty of 1929, by which Italy acknowledged the sovereignty of the Vatican City proper, but not of various properties outside the Vatican City known as the

Papal Domains. With respect to the latter, including Castel Gandolfo, article 15 of the Lateran Treaty provides that—

"* * * (the Papal Domains), although forming a part of the territory of the Italian state, shall enjoy the immunity guaranteed by international law to the embassies of foreign nations."

It has been pointed out to Vatican representatives that since the Papal Domains were not territory of a neutral state, but had the status of a neutral diplomatic mission located in the territory of a belligerent, there exists no legal basis on which the Vatican's claim can be paid. In this connection it is of interest that the destruction wrought on the embassies of neutrals in Berlin by Allied bombers did not create legal obligations on the part of the Allies to pay damages.

It is considered that the status of the Vatican City and the Papal Domains, and the treatment properly to be accorded them by the Armed Forces, was accurately reflected in a message which the combined Chiefs of Staff sent to General Eisenhower in December 1943. This reads substantially as follows:

1. The Vatican City is to be treated as an independent neutral state.

2. Allied troops must avoid violating territory of the Vatican City.

3. Allied troops must also avoid the Papal Domains which, although not having international status as neutral territory, are entitled to full diplomatic immunity. While every precaution must be taken to avoid violating territory of the Vatican City during the assault upon Rome, the diplomatic immunity of the Papal Domains should not be allowed to interfere with military operations, artillery fire, bombing, etc., during assault.

On December 10, 1948 the Vatican presented to us a claim for $1,523,810.98 in damages. However, the United States Army Claims Service determined through a survey of the damage that a reasonable assessment, based upon the costs of labor and materials as of April 1945 and calculated according to the then prevailing exchange rate of 100 lire to the dollar, would be 964,199.35. It is understood that the principal reason for the difference between the Vatican figure and the United States Army figure is that the latter does not take account of the cultural and artistic value of the destroyed or damaged property.

While the Department agrees with the intent of H. R. 10766 that payment of an appropriate sum should be made as compensation for the damage sustained at Castel Gandolfo, it believes that such payment is a special matter for determination by the Congress, and that the record should show that the payment is made ex gratia and not as a matter of legal liability.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

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COMMITTEE ACTION AND RECOMMENDATION

H. R. 10766 was introduced on April 24, 1956, by Representative John W. McCormack. A similar bill, H. R. 10767, was introduced simultaneously by Representative Joseph W. Martin. The first of these bills, H. R. 10766, was passed by the House on June 5, 1956.

The Committee on Foreign Relations considered the legislation on June 12, and received testimony of the Hon. Robert Murphy, Deputy Under Secretary of State. The committee voted to report the bill favorably to the Senate after requesting additional information on the damage which the United States Army Claims Service assessed at $964,199.35. The report on this damage is printed in the appendix.

The committee also inquired whether the fact that World War II operations were conducted jointly with our allies might make it possible to distribute the costs of these alleged claims. However, in a number of accidental bombings of neutral territories during World War II, compensation has been made by the Government to which the aircraft inflicting the damages belonged. For example, when British bombers accidentally bombed a Turkish island on March 15, 1942, the British Government expressed its regrets and offered compensation. The British offered similar compensation for damages caused by their aircraft in Denmark and Switzerland.

In urging favorable action, the committee concurs in the view of the Department of State that the compensation here approved is not based upon any principle of legal liability. The committee wishes to emphasize that its action must not be regarded as constituting a precedent for other claims for damages to neutral property, whether private or public, which may have been sustained in the course of military operations. The bill is approved solely as an ex gratia gesture of friendship. In that spirit the committee recommends its passage by the Senate.

APPENDIX

[NOTE.—The following letter summarizes the damages which underlie the authorization contained in the pending resolution.]

OCTOBER 27, 1949.

The honorable the SECRETARY OF STATE.

DEAR MR. SECRETARY: Reference is made to the letter from the Secretary of War to the Secretary of State, dated August 27, 1947, and to the letter from the Secretary of State to the Secretary of the Army, dated March 30, 1949, file L/C 411.00 war damages/12–748, concerning the claim of the Vatican City State. Compensation is claimed for damages resulting from operations of the United States Army against the enemy in Italy during World War II, causing damage to its property, injury and death to Vatican employees, and injury and death to others.

The claim, in the amount of 190,956,998 lire, or approximately $1,523,810.98, computed at various rates of exchange, was presented by a memorandum, dated December 10, 1948, to the personal representative of the President of the United States to His Holiness, Pope Pius XII, by the Director General of the Administrative and Economic

Services of the State of the Vatican City and also by a letter, dated December 23, 1946, from the said Director General to the Army Claims Service. Copies of these communications are attached. The claim relates to damages as indicated below:

(*a*) Property damage on February 2 and 10, May 31, and June 4, 1944 to the Papal Estates and dependencies at Castelgandolfo;

(*b*) Property damage on February 2 and 10, 1944, to the College for the Propagation of the Faith at Castelgandolfo;

(*c*) Damages arising from the death and injury of persons within the Papal Estates and college property on the dates mentioned above;

(*d*) Damage to vehicles used in the transportation of foodstuffs on Italian roads on unspecified dates; and

(*e*) Damages arising from the death and injury of Vatican employees on duty with the vehicles mentioned in (*d*) above.

The Papal Estates and dependencies and the College for the Propagation of the Faith, properties of the Vatican City States, located at Castalgandolfo, Italy, were damaged at the times mentioned. Such damages were incurred as a result of accidental and incidental aerial and ground action of the military forces of the United States while engaged in lawful combat with the enemy as a part of certain attacks upon legitimate military targets outside of the property of the Vatican City State. A fair and reasonable assessment of the damage appears to be as follows:

	Lire
Papal estates and dependencies	43, 682, 935
College property	52, 737, 000
Total	96, 419, 935

These figures are based upon the costs of labor and materials during the month of April 1945. The items of the claim, in an unliquidated sum, for the deaths and personal injuries of the persons indicated, and the damages, in the amount of 6,500,000 lire, to the vehicles mentioned, have not been supported by evidence of record.

The properties damaged at Castelgandolfo were located within territory of Italy, a nation belligerent to the United States. The claim of the Vatican City State for compensation is based, in part at least, upon the ground that, by reason of the Lateran Treaty, a portion of the property at Castelgandolfo enjoyed, under international law, the immunities afforded the seats of diplomatic agents, or the embassies of foreign nations. International law, however, does not appear to recognize that the seat of a diplomatic agent, or the embassy of a foreign nation, is, in law, effectively integrated with the territory of the state from which the mission emanates. The properties damaged were not located within neutral territory. Therefore, no violations of the sovereignty of a neutral state were involved in the incidents mentioned.

Under international law, no legal liability appears to exist on the part of the United States to make compensation for the claims here presented. Therefore, the Department of the Army finds no legal basis on which to recommend the payment of the claims heretofore presented by and on behalf of the Vatican City State, its dependencies, agents, institutions, or inhabitants for damage to the Papal Estates,

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the College for the Propagation of the Faith at Castelgandolfo, and for injury or death resulting from the bombardments on February 2, and 10, May 31 and June 4, 1944, and all claims of a related nature, including the claims for damages to its vehicles in Italian territory, and for injury or death of its employees on duty with such vehicles prior to June 5, 1944.

For your information, there is enclosed a copy of the memorandum of the Judge Advocate General to this office, upon which the foregoing conclusions are based.

Sincerely yours,

GORDON GRAY,
Secretary of the Army.

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Calendar No. 2316

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2293

RELATING TO COAST GUARD SUPPLY FUND

JUNE 22, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 4011]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 4011) to amend section 650 of title 14, United States Code, entitled "Coast Guard," relating to the Coast Guard supply fund, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

S. 4011 would authorize the Secretary of the Treasury to prescribe regulations for designating the classification of materials to be stocked in the Coast Guard supply fund. It would also authorize an increase in the existing capital of the fund for the value of usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred the fund would be charged with the cost of materials purchased or otherwise acquired. The fund would be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, valued at the approximate cost thereof.

The Coast Guard supply fund was established in 1942, to finance operations of a supply account to be established in connection with the fund, for the carrying of general stores, including such items as hardware and ship chandlery. The capital, to be transferred from Coast Guard funds, was limited to $3 million, plus the value of all or any portion of usable stores on hand on July 1, 1942.

Later, in the 1950 Treasury-Post Office Appropriations Act, the operation of messes and clothing stores was included in the supply fund and account, and all clothing and commissary supply inventories were taken up in the fund. That appropriation's language was made permanent by inclusion in section 650 of the revised title 14, United States Code, effective November 1, 1949.

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Experience with the supply fund has shown that better budgeting, cost control and inventory management would be made possible by a revolving fund for financing replenishable inventories. Under this bill stocks of materials which are staple in nature and have repetitive use would be transferred to the supply fund from Coast Guard inventories carried in other accounts. As certain other items or technical equipment of a one-time procurement type would not be suitable for inclusion in a revolving fund, the bill would authorize the Secretary of the Treasury to prescribe regulations for designating the classications of materials to be stocked in the supply fund, thus providing administrative flexibility for adjustments to meet changing operating conditions.

The letter of the Treasury Department dated May 25, 1956, requesting introduction of the bill, is attached together with a memorandum of explanation.

TREASURY DEPARTMENT,
Washington, D. C., May 25, 1956.

The PRESIDENT OF THE SENATE.

MY DEAR MR. PRESIDENT: There is enclosed a draft of a proposed bill to amend section 650 of title 14, United States Code, entitled "Coast Guard," relating to the Coast Guard supply fund.

The purpose of this proposed legislation is to amend section 650, "Coast Guard supply fund and supply account," of title 14, United States Code, "Coast Guard," so as (1) to authorize the Secretary of the Treasury to prescribe regulations for designating the classifications of materials to be stocked in the supply fund, and (2) to provide for increasing the existing capital of the fund by the value of usable materials transferred under the regulations from Coast Guard inventories carried in other accounts.

Enactment of this proposal would not result in any need for additional appropriations.

The attached memorandum explains in detail the need for and nature of this proposal.

It would be appreciated if you would lay the proposed bill before the Senate.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

MEMORANDUM

Re Proposed bill to amend section 650 of title 14, United States Code, entitled "Coast Guard," relating to the Coast Guard supply fund

The Coast Guard supply fund was originally authorized by language contained in the Naval Appropriation Act, 1943, approved February 7, 1942 (Public Law 441, 77th Cong.), reading as follows:

"Coast Guard Supply Fund and Supply Account: The Secretary of the Treasury, upon request of the Secretary of the Navy, is authorized to transfer from appropriations for

the Coast Guard contained in this Act an amount or amounts not exceeding in the aggregate $3,000,000, for the establishment of a Coast Guard Supply Fund, which shall finance all operations of a Coast Guard Supply Account, to be established in connection with such fund, and the procedure under each fund and account shall conform with such regulations as may be prescribed by the Secretary of the Navy: *Provided*, That the capital of such Coast Guard Supply Fund, subject to the approval of the Secretary of the Navy, may be increased by the value of all or any portion of usable stores on hand on July 1, 1942, at the Coast Guard stores;"

Under that authorization, the operation of the fund was administratively limited to the carrying of general stores, that is, items of staple nature such as hardware and ship chandlery. By 1949, however, it became apparent that the operation of messes and clothing stocks would be financially improved and simplified if the inventories of these items were also to be carried under the supply fund in lieu of financing them through the annual appropriation for operating expenses. Accordingly, authority was requested to permit the taking up of clothing and commissary supply inventories in the supply fund and the following language was included for that purpose in the Treasury-Post Office Departments Appropriation Act of 1950, approved June 30, 1949 (Public Law 150, 81st Cong.):

"The capital of the Coast Guard supply fund shall be increased by the value of commissary provisions and uniform clothing on hand on July 1, 1949, and, thereafter, under regulations prescribed by the Secretary, the Coast Guard supply fund shall be charged with the cost of procurement and credited with the value of provisions consumed or sold, and the value of issues and sales of clothing, such values to be determined on a basis which will not increase the capital of the fund."

As of July 1, 1949, therefore, clothing and commissary supply inventories were taken up in the supply fund, at the then current inventory values. Later, the same language contained in the appropriation act of 1950 (already cited), was included in section 650 of the revised title 14, United States Code, entitled "Coast Guard," which became effective on November 1, 1949. Section 650 now serves as permanent authorization for the supply fund.

The Coast Guard's experience with the supply fund since 1942 verifies the principle that for financing replenishable inventories a revolving fund permits better budgeting, cost control, and inventory management. Moreover, the Comptroller General of the United States, in the audit report of Coast Guard operations for the fiscal year 1952, made the following recommendation to Congress:

"Inventories of materials and supplies acquired with annual appropriations and through the supply fund be consolidated in order that appropriation requests may correspond more closely with supply requirements for usage in the same year and to contribute to better control and supply management."

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So it is desired to apply the Comptroller General's recommendation to those stocks of material which are staple in nature and have repetitive usage. These items should be transferred to the supply fund from Coast Guard inventories carried in other accounts.

On the other hand, certain items in the Coast Guard's inventories are technical equipment of a one-time procurement type which are awaiting installation, and these are not entirely suitable for a revolving fund. Control over such items is achieved on a program basis making inventory control on a usage basis of no significance. Items of this nature are not ordinarily carried in a revolving stock fund because they tie up a portion of the capital of the fund without providing any better management data than is presently available.

For these reasons, the proposed legislation would authorize the Secretary to prescribe regulations for designating the classifications of materials to be stocked in the supply fund, and would provide for increasing the existing capital of the fund by the value of usable materials transferred under the regulations from Coast Guard inventories carried in other accounts. Whenever a class of materials is designated to be stocked in the supply fund, inventories of such materials will no longer be obtained from vendors by charges to annual appropriations provided for operating purposes, but will be obtained by charges to the supply fund. In general, because of continually changing price levels and of changing usage which brings obsolescence, it is considered desirable to authorize the Secretary to regulate the detailed administration of the supply fund. The proposed legislation would provide sufficient administrative flexibility for adjustments needed to meet changing operating conditions.

A BILL To amend section 650 of title 14, United States Code, entitled "Coast Guard", relating to the Coast Guard supply fund

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 650 of title 14, United States Code, is amended to read as follows:

"§ 650. COAST GUARD SUPPLY FUND.

"A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In such regulations, whenever the fund is extended to include items not previously stocked, the Secretary may authorize an increase in the existing capital of the fund for the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof."

(b) The analysis of chapter 17, title 14, United States Code, is amended by striking out "650. Coast Guard supply fund and supply account." and inserting in place thereof the following item: "650. Coast Guard Supply Fund.".

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law which is proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

SECTION 650 OF TITLE 14, UNITED STATES CODE

§ 650. Coast Guard Supply Fund [and supply account].

A Coast Guard Supply Fund is authorized. [The capital of the Coast Guard Supply Fund shall be increased by the value of commissary provisions and uniform clothing on hand on July 1, 1949, and thereafter, under regulations prescribed by the Secretary, the Coast Guard Supply Fund shall be charged with the cost of procurement and credited with the value of provisions consumed or sold, and the value of issues and sales of clothing, such values to be determined on a basis which will not increase the capital of the fund.] *The Secretary may prescribe regulations for designating the classification of materials to be stocked. In such regulations, whenever the fund is extended to include items not previously stocked, the Secretary may authorize an increase in the existing capital of the fund for the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.*

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Calendar No. 2317

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2294

TRANSFER OF NAVIGATION AIDS FROM COAST GUARD TO PANAMA CANAL COMPANY

JUNE 22, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 4652]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4652) to authorize the Secretary of the Treasury to transfer certain property to the Panama Canal Company, and for other purposes, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

The bill would transfer from the jurisdiction of the United States Coast Guard to the Panama Canal Company, seven lights in the approaches to the canal, which serve as aids to navigation for vessels using the canal, or calling at its terminal ports. Two of the lights named in the bill, situated on the Pacific side, presently are serviced by the Canal Company for the Coast Guard, on a reimbursable basis.

The remaining five lights, in the Caribbean, are remotely situated with respect to other Coast Guard activities, requiring the diversion of a Coast Guard tender for a portion of each year. The cost of servicing the seven lights is put at $118,000, and the Panama Canal Company estimates that it can service them at a total cost of $48,000, including depreciation and interest.

In requesting introduction of the bill, the Treasury Department gave as its opinion "that the aids to navigation involved more properly fall within the sphere of activity of the aids to navigation system maintained by the Panama Canal Company." In its report on the Senate bill the Panama Canal Company agrees that the lights were installed "primarily, if not exclusively" for the benefit of vessels using the canal, and terms it appropriate that they be owned and operated by the Panama Canal Company.

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A similar bill was the subject of Senate hearings in the 83d Congress, at which time representatives of the shipping industry protested the proposed transfer because it would add to the operating costs of the canal, for defrayal by tolls receipts. The committee feels that the navigation aids involved are properly chargeable to the canal operation.

The letter from the Department of the Treasury, requesting introduction of the bill, and from the Panama Canal Company, reporting on the Senate companion bill, are attached. There is no change in existing law.

TREASURY DEPARTMENT,
Washington, January 5, 1955.

THE PRESIDENT OF THE SENATE.

SIR: There is transmitted herewith a draft of a proposed bill to authorize the Secretary of the Treasury to transfer certain property to the Panama Canal Company, and for other purposes.

The aids to navigation, the transfer of which would be authorized by the proposed bill, are located in the approaches to the Panama Canal and are operated for the benefit of shipping bound to and from the canal. Since they are remotely situated from other Coast Guard activities, the servicing of these aids has required the diversion of a Coast Guard tender for a portion of each year from its aids to navigation work in another area.

It is the opinion of the Treasury Department that the aids to navigation involved more properly fall within the sphere of activity of the aids-to-navigation system maintained by the Panama Canal Company. In connection with two of the lights, located in the Pacific approaches to the canal on Morro Puercos and Jicarita Islands, the Canal Company for some time has been providing the maintenance and repair service for the Coast Guard, on a reimbursable basis.

In correspondence with the Coast Guard, the president of the Panama Canal Company has stated that it is reasonable and proper that the aids covered by the proposed bill should be owned and operated by the Canal Company as a part of its system of aids. The transfer of the aids would result in a material saving in cost to the Government.

It would be appreciated if you would lay the proposed bill before the Senate. A similar proposed bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress.

Very truly yours,

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

A BILL To authorize the Secretary of the Treasury to transfer certain property to the Panama Canal Company, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized to transfer to the Panama Canal Company, without exchange of funds, all or so much of the facilities, buildings,

structures, improvements, and equipment comprising aids to navigation maintained by the Coast Guard at or on Roncador Cay, Serrana Banks, Quita Sueno Banks, Cristobal Mole, Cape Mala, Jicarita Island, and Morro Puercos Island, as may be mutually acceptable for transfer.

SEC. 2. Upon completion of any transfer authorized by this Act, the functions of the Treasury Department concerning the pertinent aid to navigation and its jurisdiction over the site upon which the aid is located are transferred to the Panama Canal Company.

SEC. 3. Transfers made under this Act shall be subject to the provisions of section 246 (b) of title 2 of the Canal Zone Code, as added by the Act of June 29, 1948 (ch. 706, sec. 2, 62 Stat. 1076), except so far as said section would require payment to be made for the transferred property and assets.

PANAMA CANAL COMPANY,
April 4, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR SENATOR MAGNUSON: Reference is made to your request for a report on the bill (S. 459) to authorize the Secretary of the Treasury to transfer certain property to the Panama Canal Company, and for other purposes.

The proposed bill would authorize the Secretary of the Treasury to transfer to the Panama Canal Company, without exchange of funds, the aids to navigation listed in the bill which are now maintained by the Coast Guard at seven locations in the Carribean and Pacific appraches to the Panama Canal.

All of the subject aids to navigation were installed primarily, if not exclusively, for the benefit of vessels transiting the Panama Canal or calling at its terminal ports. It is therefore appropriate that they should be owned and operated by the Panama Canal Company as a part of its system of aids to navigation. The transfer would have the effect of removing the costs of operation and maintenance of such aids from the Treasury Department (Coast Guard) and placing them in the Panama Canal Company, where they are deemed properly to belong, since they are maintained and operated primarily as adjuncts to operation of the Panama Canal. The Panama Canal Company has at the present time the requisite maintenance personnel and equipment to enable it to assume this function immediately following transfer of the facilities from the Treasury Department to the Panama Canal Company. The total annual cost to the Company to maintain the subject facilities is estimated at $48,000, including depreciation.

As recognized by section 3 of the proposed bill, the transfer of the subject aids to navigation to the Panama Canal Company would be subject to the provisions of section 246 (b) of title 2 of the Canal Zone Code, as added by the act of June 29, 1948 (ch. 706, sec. 2, 62 Stat. 1076) which gives the Company legal authority to acquire property without exchange of funds. The cited section provides for increases in the net direct investment of the United States in the Company upon transfers to the corporation from other agencies "pursuant to applicable provisions of law," and provides that the amount of such

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increase "shall be agreed upon between the corporation and the agencies concerned and approved by the Director of the Bureau of the Budget," giving due consideration to the "cost and probable earning power of the transferred assets, or usable value to the transferee if clearly less than cost," and making adequate provisions for "depreciation of properties and equipment, obsolete or otherwise unusable inventories, and other reasonably determinable shrinkages in value."

It is recommended that the clause "except so far as said section would require payment to be made for the transferred property and assets" be deleted from section 3 of the bill. The clause follows the statement that the transfers shall be subject to section 246 (b) of title 2 of the Canal Zone Code. The excepting clause is objectionable in that it erroneously implies that section 246 (b) would otherwise require payment to be made. Section 246 (b) does not require or involve payment in any case. It is concerned only with transfers between agencies without reimbursement. The language in section 246 (b) that transfers shall be at "such appropriate amount" as is agreed upon under the prescribed criteria does not contemplate a payment but instead refers to the value of the transferred properties for the purposes of determining the amount of the increase in the net direct (interest-bearing) investment of the Government in the Panama Canal Company.

The Board of Directors of the Panama Canal Company has approved the proposed legislation and has authorized acquisition of the navigation aids by the Company by the proposed transfer.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

W. M. WHITMAN, *Secretary.*

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Calendar No. 2318

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2295

INCREASING THE NUMBER OF COAST AND GEODETIC SURVEY CHARTS FOR CONGRESSIONAL DISTRIBUTION

JUNE 22, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 5147]

The committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5147) to change the distribution of Coast and Geodetic Survey charts, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

Since 1895 the Coast and Geodetic Survey has been authorized by law to make available to Members of the United States Senate and House of Representatives 10 of each new chart issued, or free distribution to constituents. This bill would make available 100 charts of of each issue, to enable Senators and Congressmen in the coastal and contiguous areas to meet the many requests for these charts. Most of the calls for the charts are from these areas.

The charts also are offered for sale to the general public at moderate cost, and are supplied to Government departments and officers for official use. In addition, the Secretary of Commerce is allowed a number of copies of each chart, not exceeding 300, for distribution to foreign governments, and to libraries, educational institutions, and scientific associations.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

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(44 U. S. C. Sec. 246)

PUBLIC PRINTING AND DOCUMENTS

§246. Coast and Geodetic Survey, Charts; sale and distribution.

The charts published by the Coast and Geodetic Survey shall be sold at cost of paper and printing as nearly as practicable; and there shall be no free distribution of such charts except to the departments and officers of the United States requiring them for public use; and a number of copies of each sheet, not to exceed three hundred, to be presented to such foreign governments, libraries, and scientific associations, and institutions of learning as the Secretary of Commerce may direct; but on the order of Senators, Representatives, and Delegates not to exceed [ten] *one hundred* copies to each may be distributed through the Director of the Coast and Geodetic Survey.

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Calendar No. 2319

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2296

AUTHORIZING THE PANAMA CANAL COMPANY TO CONVEY TO THE DEPARTMENT OF STATE AN IMPROVED SITE IN COLON, REPUBLIC OF PANAMA

JUNE 22, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 6245]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 6245), having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to provide proper office and living quarters for the American consulate in Colon, Republic of Panama. At present, the Department of State occupies the buildings under a lease arrangement with the Panama Canal Company. The bill provides for the transfer of the property from the Panama Canal Company to the State Department. Since this is actually a transfer of property owned by the United States from one Government account to another, the Panama Canal Company will not suffer financially from the transfer without reimbursement, since under applicable regulations, the value of the real estate will be deducted from the net direct investment on which the Company is obligated to pay interest to the Treasury Department. Congressional authorization is required to effect the transfer.

A treaty of mutual understanding and cooperation between the United States of America and the Republic of Panama was signed January 25, 1955, and subsequently ratified by the Senate. Under this treaty certain real property in the Fort de Lesseps area of Colon is being transferred from the ownership of the Panama Canal Company to the Panamanian Government. The commitment to Panama which is subject to congressional action excepts from the proposed transfer to Panama the two lots which would be transferred to the Department

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of State under the subject bill. Both the Panama Canal Company and the State Department favor the bill, thus the committee does recommend that the bill do pass. There are no changes in existing law.

DEPARTMENT OF STATE,
Washington, April 7, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill to authorize the Panama Canal Company to convey to the Department of State an improved site in Colon, Republic of Panama.

A treaty of mutual understanding and cooperation between the United States of America and the Republic of Panama was signed January 25, 1955. Under the terms of this treaty certain real property in the Fort de Lesseps area of Colon is being transferred from the ownership of the Panama Canal Company to the Panamanian Government. The commitment to Panama which is subject to congressional action expressly excepts from the proposed transfer to Panama the two lots which would be transferred to the Department of State under the subject legislation for consular offices and residential quarters. For your information, photostatic copies of survey drawing No. S–6117–37 dated December 28, 1954, and a metes and bounds description of the property are enclosed.

The Department of State now holds under lease the 2 buildings and land from the Panama Canal Company for a period of 10 years with firm option to renew for 5 additional 10-year periods, but it is the opinion of the Department that outright acquisition of this property would be in the best interests of the United States Government. The Panama Canal Company is unable to transfer the buildings and land (without reimbursement) unless congressional authorization is given. The Panama Canal Company is cognizant of the situation and is agreeable to this proposed legislation.

The proposed legislation does not require reimbursement from any funds appropriated to the Department of State. This conveyance will, so far as concerns the investment of the United States in the Panama Canal Company, be subject to the provisions of section 246 (b) of title 2 of the Canal Zone Code, as added by the act of June 29, 1948 (ch. 706, sec. 2, 62 Stat. 1076).

A similar communication is being sent to the President of the Senate.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress for its consideration.

Sincerely yours,

JOHN FOSTER DULLES.

A BILL To authorize the Panama Canal Company to convey to the Department of State an improved site in Colon, Republic of Panama

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Panama Canal Company, represented by its President or Vice President, is author-

ized to convey to the United States of America, represented by the United States Ambassador to the Republic of Panama, free of cost and for use by the Department of State for diplomatic and consular purposes, all of the right, title, and interest of the Panama Canal Company in and to a certain parcel of land situated in the de Lesseps area of the city of Colon, Republic of Panama, together with Panama Canal Company buildings Nos. 621 and 622 located thereon. Said parcel of land fronts on the westerly side of Colonel Shaler Street, is bounded by Limon Bay on the west, has an area of 78,762 square feet, more or less (7,317 square meters, more or less), and is as shown on Panama Canal Company Drawing No. S–6117–37, entitled "United States Consulate Site, DeLesseps Area, Colon," scale 1:1,000, dated December 28, 1954, and as described more fully by metes and bounds in a metes and bounds description of the same date accompanying said drawing, both of which are on file in the Office of the Governor, Balboa Heights, Canal Zone. The lands and buildings conveyed under authority of this Act shall be administered and dealt with pursuant to the authority contained in the Foreign Service Buildings Act of 1926, as amended, just as though they were acquired under the authority of that Act.

BOUNDARY DESCRIPTION OF UNITED STATES CONSULATE SITE, DE LESSEPS AREA, COLON

Beginning at monument No. 2, which is a 1¾-inch round scribed brass plug, located at the edge of a concrete sidewalk, on the boundary of Battery Morgan in the City of Colon, the geodetic position of which monument, referred to the Panama-Colon datum of the Canal Zone triangulation system is in latitude 9° 21′ N. plus 5,451.23 feet (1,661.538 meters) and longitude 79° 54′ W. plus 3,904.78 feet (1,190.179 meters) from Greenwich.

Thence from said initial point by metes and bounds:

N. 43° 00′ 00″ E., 224.00 feet (68.275 meters) along the boundary of Battery Morgan to monument A, which is an iron rod in concrete;

S. 47° 00′ 00″ E., 43.01 feet (13.109 meters), to monument B, which is an iron rod in concrete, located at the back of the curb of the turn-in to Battery Morgan, on the westerly side of Colonel Shaler Street;

On the curve to the right, following the back of the above-mentioned curb, 7.38 feet (2.249 meters), to monument C, which is an iron rod in concrete, located at the back of the curb on the westerly side of Colonel Shaler Street. The direct bearing and distance from monument B to monument C is S. 00° 56′ 00″ E., 7.36 feet (2.243 meters);

Southwesterly, along the back of the curb on the westerly side of Colonel Shaler Street, 311.70 feet (95.006 meters), to monument D, which is an iron rod in concrete. The direct bearing and distance from monument C to monument D is S. 07° 18′ 40″ W., 311.64 feet (94.988 meters);

S. 71° 32′ 45″ W., 224.80 feet (68.519 meters) along a line which is 18.00 feet (5.486 meters) southeasterly from and parallel to the southeasterly face of building No. 622, through monument D–1, which is a monel plug in the center of a concrete sidewalk, and monument E, which is a brass plug located in the top of the concrete sea wall, to an unmarked point called E–1, located at the outside face of

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the concrete sea wall at its base, the distances being 162.72 feet (49.597 meters) 60.88 feet (18.556 meters) and 1.20 feet (0.366 meters), successively, from beginning of the course;

Northwesterly and northeasterly, 384 feet, more or less, (117 meters, more or less) along the outside face of the above mentioned sea wall, at its base, and the outside face, at its base, of a newly constructed sea wall, to an unmarked point called F, located at the northwesterly corner of the last mentioned sea wall. The direct bearing and distance from point E–1 to F is N. 02° 40′ 35″ W., 373.05 feet (113.706 meters);

S. 78° 42′ 00″ E., 2.80 feet (0.853 meters), to monument No. 4–A, which is a monel plug located at the top edge of the old sea wall on the westerly boundary of Battery Morgan;

Thence following the boundary of Battery Morgan to monument No. 2 as follows:

Southeasterly, on a curve to the left, with a radius of 91.00 feet (27.737 meters), 17.53 feet (5.343 meters) to monument No. 4, which is a monel plug located at the foot of a concrete wall. The direct bearing and distance from monument No. 4–A to monument No. 4 is S. 30° 31′ 00″ W., 17.50 feet (5.334 meters);

Southeasterly, on a curve to the left, with a radius of 56.86 feet (17.331 meters), 44.66 feet (13.612 meters) to monument No. 3, which is a monel plug located in the edge of a concrete wall. The direct bearing and distance from monument No. 4 to monument No. 3 is S. 24° 30′ 00″ E., 43.52 feet (13.265 meters);

S. 47° 00′ 00″ E., 90.64 feet (27.627 meters) to monument No. 2, the point of beginning.

The directions of the lines refer to the true meridian.

The above described tract contains an area of 78,762 square feet, more or less (7,317 square meters, more or less), and is as shown on Panama Canal Company drawing S–6117–37, entitled "U. S. Consulate Site, DeLesseps Area, Colon," scale 1: 1000, dated December 28, 1954, on file in the Office of the Governor, Balboa Heights, C. Z.

R. B. Ely,
Chief, Surveys Branch.

December 28, 1954.

Panama Canal Company,
Washington, D. C., June 30, 1955.

Hon. Herbert C. Bonner,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

Dear Mr. Bonner: Your request to the Secretary of Defense for a report on the bill H. R. 6245, to authorize the Panama Canal Company to convey to the Department of State an improved site in Colon, Republic of Panama, has been referred to this office for a report on behalf of the Panama Canal Company.

The land and two buildings described in the bill are owned by the Panama Canal Company in the city of Colon, Republic of Panama, and are now being used by the Department of State for consular purposes. The bill would permit the transfer of the property to the Department of State without reimbursement.

The other real estate of the Panama Canal Company in Colon, except the railroad right-of-way, is scheduled for transfer in due course

to the Republic of Panama without reimbursement, under the terms of a treaty and memorandum signed January 25, 1955, between the United States and the Republic of Panama. The commitment to Panama, which is subject to congressional action, expressly excepts from the proposed transfer to Panama the two lots which would be transferred to the United States (Department of State) under the subject legislation.

The transfer of the property would be subject to the provisions of section 246 (b) of the Panama Canal Company Act, as amended. Under those provisions the value of the transferred property as determined by the agencies concerned and approved by the Director of the Bureau of the Budget in accordance with the criteria set forth in the law, would be deducted from the net direct investment of the United States in the Panama Canal Company upon which the Company is required to pay interest to the United States Treasury. The value of the subject properties for such purpose is estimated at $42,232.

Since the real property involved is intended for permanent use by the Department of State for consular purposes, and since it is presently so being used under lease from the Panama Canal Company, its removal from the Company's capital assets, with the resulting reduction in the interest base, is indicated and desirable, even apart from, and in advance of, the contemplated transfer to the Republic of Panama of adjacent Company real estate, referred to above. In any event, the Company prefers not to retain these two lots in the Republic of Panama as owner and landlord after its other properties are transferred. For these reasons, the Company recommends approval of the proposed legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

W. M. WHITMAN, *Secretary.*

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Calendar No. 2320

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2297

REVISING REQUIREMENTS FOR ACADEMIC ADVISORY BOARD OF UNITED STATES MERCHANT MARINE ACADEMY

JUNE 22, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 6850]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 6850) to create an Academic Advisory Board for the United States Merchant Marine Academy, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

The bill would amend the present procedure, in connection with the appointment of the Academic Advisory Board for the United States Merchant Marine Academy. Presently the Advisory Board of "not to exceed seven persons of distinction in the field of education" is named by the Secretary of Commerce to examine the course of instruction and advise the Superintendent of the Academy with reference thereto.

This bill would provide that the seven members to be named by the Secretary shall be "persons of distinction in education and other fields relating to the purposes of the Academy" and that they shall visit the Academy once during the academic year, and may convene once each year in Washington. They would be directed, in addition to examining the course of instruction, to study the management of the Academy as well, and to advise the Maritime Administrator relative thereto, with a copy of their report to be submitted also to the Superintendent of the Academy.

The members of the Board would serve without pay, would be appointed for terms not to exceed 3 years, and could be reappointed. In June of each year the Secretary would be authorized to appoint one of the members to serve as Chairman. Expenses of the Board while engaged in these duties, including travel expenses, would be defrayed under Government travel regulations from Maritime Administration funds.

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The proposal to include in this Advisory Board "persons of distinction in * * * other fields relating to the purposes of the Academy" is in line with the recommendation made by this committee in its report on Merchant Marine Training and Education, filed January 31, 1956, following completion of a study made by a special subcommittee named under Senate Resolution 35, 84th Congress, 1st session.

As a result of discussions and testimony submitted during the public hearings conducted by the special subcommittee as to the advisability of enlarging the Advisory Board to include qualified representatives of maritime labor and management, the committee stated in their report:

> Accordingly your committee takes this opportunity to express the opinion that maritime labor and management should be represented on the Kings Point Advisory Board. In this way the Academy can be kept better advised of the needs, views, etc., of the maritime industry; and maritime labor and management can have more to say in and a better understanding of the purposes and functioning of the Academy.

The committee feel that broadening of the representation on the Board to cover maritime management and labor interests will make available to the Maritime Administration and to the Academy management an objective viewpoint, based on intimate knowledge of maritime officer needs and requirements, and of changing conditions in the American and the world shipping industry, that would be most valuable, and most helpful in keeping the Academy curriculum responsive to current needs.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, matter to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 214, 80TH CONGRESS, 1ST SESSION (61 STAT. 401)

AN ACT To create an Academic Advisory Board for the United States Merchant Marine Academy

[That the United States Maritime Commission is authorized to appoint an Academic Advisory Board of the United States Merchant Marine Academy which shall consist of not to exceed seven persons of distinction in the field of education who shall serve without pay. The members of the Board shall visit the United States Merchant Marine Academy at least once during the academic year for the purpose of examining the course of instruction and advising the superintendent relative thereto. The expenses of the Board while engaged in these duties, including the expense of travel, shall be defrayed under Government travel regulations from any appropriation for the authorized work of the Maritime Commission.] *The Secretary of Commerce may appoint an advisory board to the United States Merchant*

Marine Academy consisting of not more than seven persons of distinction in education and other fields relating to the purposes of the academy, who shall serve without pay. Members of the advisory board shall be appointed for terms of not to exceed three years and may be reappointed. The Secretary of Commerce shall, in June of each year, appoint one of the members to serve as chairman. The members so appointed shall visit the academy at least once during the academic year on the call of the chairman and may convene once each year in Washington, at the call of the Maritime Administrator, for the purpose of examining the course of instruction and the management of the academy and advising the Maritime Administrator, with a copy of such advice to the superintendent, relative thereto. The expenses of the board while engaged in these duties, including the expense of travel, shall be defrayed under Government travel regulations from any appropriation for the authorized work of the Maritime Administration.

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Calendar No. 2322

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2298

AMENDING THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

JUNE 22, 1956.—Ordered to be printed

Mr. ANDERSON, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany S. 4112]

The Joint Committee on Atomic Energy, having considered S. 4112, an original committee bill, to amend the Atomic Energy Act of 1954 to protect the public by providing governmental indemnity and granting limitation of liability for persons in the atomic-energy program, do report favorably thereon and recommend the bill do pass.

BACKGROUND

When the Atomic Energy Act of 1954 was passed it was the hope of Congress that the provisions in the laws liberalizing the statutory restrictions which had hitherto given the Government a monopoly in the atomic-energy field would encourage the entrance of private industry into the program, and speed the further development of the peaceful uses of atomic energy.

In January and February of this year the Joint Committee on Atomic Energy held its hearings, as required by section 202 of the act, to study the development, growth, and state of the atomic-energy industry. During these hearings it became apparent from the testimony of many persons that the problem of liability in connection with the operation of reactors is a deterrent to further industrial participation in the program. On February 20, the Commission took the position that legislation was needed at this session of Congress. The Commission, however, made no legislative proposals at that time. (See pp. 392, 393 of Hearings before the Joint Committee on the Development, Growth, and State of the Atomic Energy Industry.)

The Atomic Energy Commission reports experience of 607,000 reactor operating hours and nearly 18 million man-hours in reactor plants from 1943 through 1954 without any accidents involving radiation injury sufficient to cause lost time of personnel. Since then

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the record has continued substantially unchanged. The Commission reports that the safety record from the operation of reactors in Great Britain is equally favorable.

In the history of reactor operations there have been three incidents of public notice involving reactors. Two of these were accidental—the one at Chalk River in Canada and the one at the Experimental Breeder Reactor at Arco. In both of these, personnel failure caused damage which was primarily limited to the reactor itself. The third incident was a deliberate forcing of a small experimental reactor to explosion to study the effects of such action. In none of these three incidents was there any damage to any person. The property damage in both of the accidental incidents was essentially confined to the reactor itself.

All of the new reactors which are being built or planned have incorporated into them every conceivable device to see that they are safe. The reactors themselves are constructed with immediate shielding designed to minimize blast damage. They also have gas-tight containing envelopes of concrete and steel built around them, such as the sphere which has been built around the Experimental Submarine Reactor at West Milton, N. Y. The possibility of dangerous materials escaping and causing damage outside the reactor facilities is infinitesimal. However, the possibility does still exist.

The Commission has extensive powers to protect the public health and safety through its regulatory acts, and it also has mandate for a strong Inspection Division to see that the regulations are complied with. During the hearings, the Commission explained at some length its safety precautions. All of these minimize the possibility of such escape.

Since radioactive materials are many times more toxic and poisonous than other substances, the companies which are interested in participating in the reactor program are hesitant about assuming the liabilities which could ensue in the remote event of a reactor meltdown with the resulting release of fission products and radioactive materials into the air. At this stage in the development of atomic energy these companies do not envision any profit for many years from the research and development efforts that have to be put into the program. Yet, in the unlikely event of a runaway reactor they may be subjected to damage claims which have been estimated in the testimony before the committee at sums ranging fron several hundred thousand dollars for large reactors to sums up to a billion dollars, and somewhat beyond in a few estimates. The range of damage from creditable accidents for an atomic powerplant of 100,000 kilowatt electrical output was put at 2 to 6 million dollars, with a maximum of 100 percent loss of fissionable material (which is an impossibility) at 130 to 600 million dollars.

However, it should be pointed out that these sums of damage, in the main, represent the amount of damage to property and not to persons, since the products from a runaway reactor must be borne on winds to the areas where they can cause the damage, and this gives a large time period for local municipal authorities and civilian defense officials to evacuate persons living in the area which might be affected. However, there is a possibility of heavy damage to persons and property, and as a consequence, this liability problem has become a major roadblock to the further development of an atomic energy industry in this country.

Recognizing the importance of the problem, the Joint Committee took the unusual procedure of calling a seminar of people interested in the various aspects of this problems. Some 40 persons met with the committee in executive session on March 15 and 16. They included representatives from the Atomic Energy Commission, from the companies who build reactors or parts, from companies which would operate reactors, and from insurance firms. A full, free, and frank discussion of the problems between the committee and persons involved increased the desire of the committee to find some solution to this problem.

These hearings were based on H. R. 9701, introduced by Mr. Price, which provided for a full governmental indemnity, and H. R. 9802, introduced by Mr. Cole, which limited the liability of the reactor owners. After this seminar the chairman sent out a letter on April 26 to the industry and others interested which suggested possible legislation incorporating features of both the Price and the Cole bills. This new proposal was based on staff studies of the indemnity problem and of the results of the seminar. In addition, the letter raised questions as the basis for possible hearings.

On May 15, 16, 17, 18, and 21 the Joint Committee held public hearings on the problem. The witnesses who were heard were in the order of their appearance.

Lewis L. Strauss, Chairman, Atomic Energy Commission
Dr. Willard F. Libby, Commissioner, AEC
Harold S. Vance, Commissioner, AEC
Thomas E. Murray, Commissioner, AEC
Harold L. Price, Director, Division of Civilian Application, AEC
Dr. C. R. McCullough, Director for Reactor Safeguards, AEC
William Mitchell, General Counsel, AEC
W. Kenneth Davis, Director, Division, Reactor Development, AEC
Don S. Burrows, Controller, Division of Finance, AEC
H. R. Searing, chairman of the board, Consolidated Edison Co. of New York
Charles H. Weaver, vice president of Westinghouse Electric Corp.
Walker L. Cisler, president of Power Reactor Development Co.; accompanied by Edward M. Spencer, assistant treasurer of the Detroit Edison Co., and Edward S. Reid, Jr., counsel for Power Reactor Development Co.
R. L. Schacht, general manager, Consumers Public Power District, Columbus, Nebr.
Charles J. Haugh, on behalf of the Association of Casualty and Surety Companies
Ambrose B. Kelly, general counsel, Associated Factory Mutual Fire Insurance Companies
Elmer L. Lindseth, president, Cleveland Electric Illuminating Co. and member, Edison Electric Institute Committee on Atomic Power
Willis Gale, chairman, Commonwealth Edison Co., Chicago
Francis K. McCune, president, Atomic Products Division, General Electric Co.; accompanied by William Kennedy, counsel, Atomic Products Division
Percy Chubb, American Insurance Association
Philip Sporn, president, American Gas & Electric Co. and Nuclear Power Group, Inc.

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John Menke, president, Nuclear Development Corp. of America
William S. Peterson, American Public Power Association, Washington, D. C.
Ralph E. Becker, secretary-treasurer, Federation of Insurance Counsel
Herbert W. Yount, vice president of the Liberty Mutual Insurance Co.
Tom Pickett, executive vice president of the National Coal Association
William Webster, president of Yankee Atomic Electric Co.
Charles E. Oakes, president of the Pennsylvania Power & Light Co.
John N. Keen, manager, Wolverine Electric Cooperative, Big Rapids, Mich.
Donald H. Dunham, director, Retirement, Safety and Insurance Department, National Rural Electric Cooperative Association; accompanied by Robert Kabat, administrator, NRECA Atomic Energy Study Group
Kenneth E. Black, president of the Home Insurance Co. and chairman of the National Board of Fire Underwriters Committee
Stoddard M. Stevens, a member of the law firm of Sullivan & Cromwell, New York City; accompanied by George C. Kern, Jr., an attorney with the firm of Sullivan & Cromwell, New York City
Andrew J. Biemiller, legislative representative of the American Federation of Labor and Congress of Industrial Organizations; accompanied by Leo Goodman of the Research Department, AFL-CIO

At that time the Atomic Energy Commission presented its proposed bill to the Joint Committee, which Mr. Cole later introduced as H. R. 11242. On the basis of these hearings and following up lines of thought which had earlier been generated by staff studies, the chairman introduced S. 3929, which provided for a different method of approach to the problem, following along the lines of his letter of April 26, 1956.

The Joint Committee held hearings on these two bills on June 15, at which time these witnesses appeared:

Harold S. Vance, Commissioner, Atomic Energy Commission
William Mitchell, General Counsel, Atomic Energy Commission
Oscar M. Ruebhausen, Atomic Energy Committee, New York City Bar Association
Stoddard M. Stevens, Sullivan & Cromwell, New York City
H. W. Yount, vice president, Liberty Mutual Insurance Co.
Charles J. Haugh, representing Association of Casualty Surety Companies
Andrew J. Biemiller, legislative representative, American Federation of Labor and Congress of Industrial Organizations
Donald H. Dunham, director, Retirement, Safety and Insurance Department, National Rural Electric Cooperative Association

In addition, over 20 statements were filed for the record. The unanimous preference of all persons outside the Government agencies was for legislation along the lines of S. 3929.

Commissioner Vance, in speaking for the Atomic Energy Commission, stated as the Commission position:

> The central fact which emerged from those hearings was a striking unanimity of opinion that the liability insurance expected to be available from the insurance industry will not

provide adequate protection to the public against the possibility of catastorphic accidents, remote though that contingency may be, and that legislation is needed promptly to remove the deterrent effect which limited insurance protection will have on development of the nuclear power industry.

The two bills which the committee is considering today—H. R. 11242 and S. 3929, the bill prepared by the Joint Committee staff and introduced by Senator Anderson—both have the removal of this deterrent as their principal objective. Although the approach embodied in S. 3929 differs somewhat from that incorporated in H. R. 11242, we believe that legislation of the type suggested in S. 3929 would meet the problem to which both bills are directed, and could be administered in a practical and workable manner.

In response to questions by Mr. Price as to the Commission's preference, Mr. Vance further stated:

I frankly believe that the passing of some bill at this session of Congress is more desirable than the selection of a particular bill. On the assumption that a bill such as the bill prepared by the staff of the Joint Committee would have a better chance for passage at this session, then we are in favor of that bill, and, as I said, we believe it is workable. If, in the course of time, it develops that there are difficulties with the bill, in another session of Congress it could be amended. But if this session ends without some action on this suggestion, it would immeasurably delay what we believe would be further progress in this field.

In addition to the work of the Joint Committee, there have been other studies of the problems in this field. In March 1955 the Atomic Energy Commission appointed an advisory committee consisting of 10 persons representing all phases of the insurance industry. This committee made a preliminary report on July 15, 1955, which emphasized that the primary difficulties would be in connection with third-party liability. The committee made another interim report in January 1956 after the companies had been able to find ways of getting together sums which could be used to protect the industry. Where the highest liability policy which heretofore had been issued amounted to $10 million, the stock companies alone combined in a pool which would be able to issue policies to protect the property and persons of the public for damages up to $50 million. The mutual companies were able to form a similar pool which could insure risks up to $15 million.

A study of the problem was also begun by the Legislative Drafting Research Fund of the Law School of Columbia University which was employed in November by the Atomic Industrial Forum to prepare reports on the problems. The preliminary report was made March 1, 1956, and the final report will be made by September 15, 1956. The preliminary report of the fund has been of great assistance to the committee. The most pertinent portions of the Columbia report are printed in the committee hearings.

The basic approach of S. 3929, and now of S. 4112, was to have the Commission determine the amount of financial protection which the licensee for reactors must have to protect the public against nuclear

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incidents. Beyond the amount of financial protection there would be required as a condition of the license the Government would indemnify the reactor operators for sums up to $500 million. If a runaway reactor should cause any further damages beyond that, the way was left open for Federal contributions after congressional consideration. If the sums available were still not sufficient to take care of all of the damage, limitation of liability proceedings would be made available in order to provide a ready technique for apportioning the moneys available among those hurt. The Commission was given authority to use this same power in its contracts for those doing work directly for the Commission, not merely licensees.

The indemnification contracts are to protect the public by means of providing funds to the licensee and any of those who might be found liable with him for payment of public damages. Those pelple who design and construct the reactor and who supply parts for it will have funds made available to them if they are found liable.

The basic principles underlying the bill are two:

1. Since the rights of third parties who are injured are established by State law, there is no interference with the State procedures until there is a likelihood that the damages exceed the amount of financial responsibility required. At that point the interference is limited to the prohibition of making payments through the State courts.

2. A system of indemnification is established rather than an insurance system, since there is no way to establish any actuarial basis for the full protection required. The chance that a reactor will run away is too small and the foreseeable possible damages of the reactor are too great to allow the accumulation of a fund which would be adequate. If this unlikely event were to occur, the contributions of the companies protected are likely to be too small by far to protect the public, so Federal action is going to be required anyway. If the payments are made large enough to insure that there is an adequate fund available, the operation of the reactors will be made even more uneconomic. On the other hand, if, as the Joint Committee anticipates, there never will be any call on the fund for payments, the funds will have been accumulated to no purpose. Hence, in this instance it seemed wisest to the Joint Committee not to treat this as an insurance problem but to treat it as an indemnification problem. There seems to be no real need for establishing all of the technical mechanisms of an insurance fund in this situation.

It was for the reasons above that the Joint Committee decided against the program of permissive reinsurance as suggested by H. R. 11242. While a program of reinsurance may have a place in other parts of the Federal insurance program, such as flood insurance, it was felt at this time that such a program was not a proper part of the indemnity legislation. It can be added at a later time if the need develops. It was because of similar reasons that the Commission's provision to have an atomic indemnity fund set up on an actuarial basis, including permission to the Commission to issue debentures which could be bought by the Treasury and sold on the public market, was rejected. The provisions of this bill provide governmental indemnifications to those licensees who obtain their licenses within the next 10 years. During this period of time it is hoped that there will be enough experience gained so that the problems of reactor safety will be to a great extent solved and the insurance people will

have had experience on which to base a sound program of their own. In the meanwhile, the Commission is under two compelling duties:

The first is to see that the reactors which are built are designed, constructed, and operated in the safest fashion.

Secondly, the Commission has a duty to make available for industrial study as much of the information it now has, or will accumulate, which bears on the problems of safe operation and insurability of reactors. There appear to be many sources of information within the Commission's program other than that directly involved in the reactor work for peaceful uses which would be of help in this situation.

Section-by-Section Analysis

Section 1 adds to the Atomic Energy Act of 1954 a new finding that it is in the interest of the general welfare and common defense that the United States can undertake both the indemnity and limitation of liability programs established by this bill. The primary concern of the Federal Government is with the protection to the people who might suffer damages from the new atomic energy industry. Since many of the reactors which will be built will be producing special nuclear material which is vital for the defense of the country, it is in the interest of the common defense and security to see that these companies are protected in their operations by having moneys available to them for payment of public liability claims and having limitations of liability proceedings available when those funds are insufficient. Since title to special nuclear material is in the United States, Congress has special powers and duties with respect to the use of that material. Congress also has a national defense interest in keeping electric power companies in business to supply this essential ingredient to our industrial complex. One of the other constitutional bases for the limitation of liability program is the bankruptcy power of the United States for it is improbable that any firm could survive claims against it of $500 million, over and above the insurance which might be available.

Section 2 modifies the clause in the section of the Atomic Energy Act of 1954 relating to the conditions which are attached to the license for special nuclear material. Up to now, this clause required the licensee to hold the United States harmless from the use of the special nuclear material. Now there has been an exception written into the clause with respect to those portions of this bill, whereby the United States agrees to indemnify the licensee and permit limitation of liability proceedings. The exception was written in this manner since the provisions of the bill with respect to indemnity have a 10-year period of operation at this time. It was not intended by the language of this exception that the licensee would have to complete the limitation and indemnification of liability proceedings before this section applied.

Section 3 of the bill adds four definitions to the Atomic Energy Act of 1954. These definitions are important solely to the substantive provisions of this bill. The drafting of the bill is made considerably easier through these definitions which permit the use of single phrases to be substituted for long complex clauses.

The first definition is of "financial protection" which is defined to mean the ability to respond in damages for public liability.

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The second definition is of "public liability" as it is used in the definition of financial protection and elsewhere in the statute. It means a legal liability arising out of, or resulting from, a nuclear incident. This definition has two exceptions. The first is to claims under State or Federal workmen's compensation acts where employees are employed in connection with the activity where the nuclear incident occurred. It is the thought that the insurance carriers who pay workmen's compensation for this group of personnel know and understand the risks which they are taking and charge accordingly. Therefore, any claims which are paid out for these personnel by the carriers should not properly be made claims for which the Government provides indemnification. For those employees who are not employed in connection with the activity, the workmen's compensation premium does not include any charge for this protection. The premium for the workmen not employed at the activity is not calculated on the possibility of any nuclear explosion. Therefore, there is a real and fair basis for permitting the carriers for these employees to have their claims included in the claims to be indemnified. Thus, if a licensee has employees who are working in connection with the activity and there should be a runaway reactor, the employees who are working on the reactor project would not have their workmen's compensation claims subrogated for payment out of the indemnity fund. However, the employees of the same company which are not working on the activity may even be in another town and would have the workmen's compansation claims made payable out of the indemnity moneys. In this definition the phrase "State or Federal Workman's Compensation Act" is intended to be descriptive and not limiting and includes any law similar to the compensation acts, such as the occupational disease acts and also any special legislation which may be enacted in the future for the protection of employees who are exposed to radiation. The suggestion which was contained in the draft legislation of the Commission that willful damages be excluded was not accepted since the damage to the public is the same, whether caused by any means—willful or nonwillful. However, the circumstances surrounding any nuclear incident, including the willfulness, would certainly be grounds for examining and possibly suspending the operations under the license.

The second exception in the definition of "public liability" is for damage to property of persons indemnified which is located at the site of, and used in connection with, the activity where the incident occurs. If there is a reactor incident, there would be no claim for the damages to the reactor which could be included in the indemnification of the Government. However, if the same organization owned property, for instance in another town, for which nuclear insurance would not be expected, that property could be included in the property to which the indemnity would be applied. Basically, however, this exception was included because it was brought to the attention of the Joint Committee that even a small research reactor might be located on the campus of a university—if the Commission found such a location to be safe—and there would be no way in which that educational institution could obtain atomic insurance on all the rest of its buildings. This is designed to afford protection for that kind of property.

The definition of "nuclear incident" is designed to protect the public against any form of damage arising from the special dangerous properties of the materials used in the atomic energy program. It includes

any damage which may result from any hazardous property of source, special nuclear, or byproduct material. It includes bodily injury or death, loss of or damage to property, and loss of use of property. While most incidents will be happenings which can be pinpointed in time—such as a runaway reactor or an inadvertment exposure to radiation—it was not thought that an incident would necessarily have to occur within any relatively short period of time. For instance, the steady exposure to radiation, such as from an undetected leak of radioactive materials from a storage bin, could constitute an incident. The occurrence which is the subject of this definition is that event at the site of the licensed activity, or activity for which the Commission has entered into a contract, which may cause damage, rather than the site where the damage may perhaps be caused. This site must be within the United States. If there is anything from the licensed activity which causes injury abroad or if there is any activity abroad which causes further injury in the United States the situation will require further investigation by the Congress at that time.

The definition "person indemnified" means more than just the person with whom the indemnity agreement is executed. In the case of license this agreement will be executed with the licensee. Where the Commission and a contractor decide to take advantage of the provisions of this act, an indemnity agreement will be executed with the prime contractor. The phrase "person indemnified" also covers any other persons who may be liable. For a licensee for a reactor, this would mean in addition to the licensee that the indemnification extends to such persons as the subcontractors of the licensee, including those responsible for the design and construction of the reactor and the supplying of parts. However, it is not meant to be limited solely to those who may be found liable due to their contractual relationship with the licensee. In the hearings, the question of protecting the public was raised where some unusual incident, such as negligence in maintaining an airplane motor, should cause an airplane to crash into a reactor and thereby cause damage to the public. Under this bill the public is protected and the airplane company can also take advantage of the indemnification and other proceedings.

One point mentioned several times in the hearings related to the possible liability of a carrier transporting spent fuel elements from a reactor to a processing plant. If such a company, whether through negligence or otherwise, should have an accident which would spill the radioactive materials into a stream, this bill would afford protection to the public and to the carrier, even though the carrier is not required to be a licensee under the Atomic Energy Act of 1954. However, those transmitting the material are required to be licensees and to see that appropriate safety measures are taken during the shipment. The Atomic Energy Commission has had extensive experience in shipping radioactive materials back and forth across the country without any of these possible incidents having yet occurred. Having the agreement run to the benefit of any other person who may be liable will parallel the policies which the insurance companies are planning to issue. They, too, will be entered into with the licensee or prime contractor and will run for the benefit of any other person who may be liable. This method of approach was suggested by the insurance companies since they did not want to have a pyramiding of insurance at a reactor. This pyramiding could result from having each of the design-

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ers, owners, contractors, and others interested in the reactor taking out separate policies of insurance.

Section 170 of the Atomic Energy Act is added as a new section. Subsection a. makes the providing of financial protection and the signing of an indemnity agreement a condition of each license under section 103 and 104 and each construction permit under section 185. Section 103 licenses are for reactors which are found to be of practical value and section 104 licenses are for research and demonstration reactors. In addition, the Commission is given the option of requiring financial protection for any license issued under section 53, 63, or 81. Section 53 permits the licensing of special nuclear material; section 63 permits licensing of source material; section 81 permits licensing of byproducts material. It is not expected that ordinarily the Commission will use the authority given it with respect to these latter three types of materials. However, there may be rare instances in which the licensee, without at the same time being a licensee of a facility, may have such large quantities of materials or such quantities of especially dangerous or hazardous materials as to warrant the imposition of the provisions of this bill. (This authority is in addition to the authority given to the Commission in sec. 182 which permits the Commission to find that any applicant for a license is financially qualified to undertake the purposes of the license.)

The Commission is given discretion as to the manner in which the financial protection may be afforded. Such protection may come from private insurance, private contractual indemnities, self-insurance or other proofs of financial responsibility, including cash, other assets, bonds, etc. It could be a combination of these items. Where financial responsibility is required under the provisions of this section for the protection of the public, it is a condition of the license that the licensee execute and keep in force the agreement of indemnification under subsection 170 c. The maintenance of the financial protection is also a condition of the license. Under this subsection the Commission is given authority to require that an applicant waive any immunity it may have conferred by Federal or State law. If a college or university, for instance, which is owned by a State should want to have a reactor, it may be required to shed its immunity as a part of the State sovereignty to suit by the public. This authority is not mandatory but is permissive, since there may be other courses of action which may be as satisfactory in seeing that the public is protected. This will give the Commission authority to work out such arrangements. While there is reference to a construction permit in this particular phrase, the word "license" as used in the balance of the bill includes the word "construction permit" in accordance with the last sentence of section 185 of the Atomic Energy Act of 1954 which reads:

> For all other purposes of this Act, a construction permit is deemed to be a "license."

Subparagraph b. sets the maximum amount of protection which the Commission might require at the amount of private insurance available from private sources. The Commission is authorized to set lesser amounts of financial protection which is required, based on such items as the cost and terms of the private insurance, the type, size, and location of the facility and other factors pertaining to the hazard and the nature and purpose of the facility. Thus, if there is

$65 million available as insurance on a 100,000-kilowatt reactor, a 5,000-kilowatt reactor might not be required to furnish financial protection equal to the full amount of the $65 million. Also, if there is $65 million available for a reactor which is located in a relatively little populated area of the country, the Commission might find that a reactor located in a completely desert part of the country need not require as much financial protection. If the Commission wants to encourage a university to do research work, it might require less financial protection as an inducement to having the research work carried on. However, it is expected that the Commission would arrive at the criteria by regulation so that, as closely as possible, persons engaged in similar enterprises are treated alike. Thus, if a public or cooperative body wanted to build a large size reactor for the production of power, it would have to meet the same requirements for financial protection as a private company. One point of caution should be mentioned. The reference to the cost of insurance in this subsection is not intended to encourage the Commission to undercut the amounts of private insurance provided at reasonable rates. Since the program is so new, and no rates are yet established the Commission must be in a position to set the amount of financial protection required at an amount lower than amount of private insurance offered if the rates appear high and all other factors indicate a lower amount is appropriate. Instead, it is merely to give the Commission a chance to look at the economics of the operation of the particular kind of reactor in deciding the amount of financial protection which may be required.

The authority given the Commission by this section to gage the hazards of a possible activity from the protection point of view, is not intended to exclude in any way or to supersede the power of the Commission under the other authorities in the Atomic Energy Act to establish safe operating conditions and safe operating localities for the reactors. The obligations on the Commission under these other powers continue unabated.

Subsection c. requires the signing of an indemnification agreement with those persons who are required to establish financial protection under subsection d. The requirement of financial protection can be made applicable to licenses issued from August 30, 1954—the date of signing the Atomic Energy Act of 1954—and August 1, 1966—about 10 years after the expected effective date of the bill. In view of the provisions in section 187 of the Atomic Energy Act of 1954, making all licenses subject to later amendment of the act, there is no need to incorporate language here amending the licenses where this financial protection may be required. Under these agreements the Commission will agree to indemnify the licensee for damages arising from nuclear incidents which are in excess of the financial protection. However, the limit of the Commission's responsibility under these agreements is to be $500 million. This limit could be subject to upward revision by the Congress in the event of any one particular incident in which, after further congressional study, the Congress felt more appropriations would be in order. This limit of $500 million is for each incident and it is to cover the incident occurring during the period of the license, for those who design and make parts for a reactor may have engaged in those activities before any licenses may have been issued. If they are found to be liable because of

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nuclear incidents occurring during the period of the license, the interests of the public and of these contributors are well protected under this bill. This protection covers those persons who supply standard items of equipment as well as those who may supply specialized items to the same extent. The use of phrases qualifying the terms "nuclear incidents" in this subsection, as in others, is not intended in any way to change the definition given to that phrase in section 3 of the bill.

Subsection d. authorizes the Commission to treat with its own contractors in the same way it can treat with licensees under the provisions of this bill. This authority is in addition to any other authority which the Commission already has and under which the Commission has entered into the indemnity clauses such as were set out in the testimony of the General Counsel of the Commission. In this subsection, however, the Commission is allotted discretion as to the amount of financial protection which may be required of its contractors before the $500 million guaranteed indemnity attaches. This authority is to be available for any type of contract which the Commission may enter into, as well as to contracts and projects which the Commission may enter into jointly with other agencies of the government. The joint contracts and projects are usually with one of the armed services or with the Department of Defense. Such projects have in the past included development of submarine reactors and the development of reactors for the propulsion of airplanes. Although the matter was raised, it was not deemed appropriate at this time to include protection for the prime contractors of the Department of Defense alone in this bill. This is a problem which has substantial differences and should be resolved only after further and full investigation of the scope of the operations. All other agencies of the Government will be licensees of the AEC and therefore will have their operations protected by this bill. As in subsection c., the $500 million limitation on the Government's agreement to indemnify can be increased by special congressional action for any particular nuclear incident if it is ever found to be desirable.

Subsection e. limits the liability of the persons indemnified for each nuclear incident to $500 million, together with the amount of financial protection required, and any other sums made available by the Commission as additional indemnification. In order to provide a framework for establishing this limitation of liability, the Commission or any person indemnified is permitted to apply to the appropriate District Court of the United States which has venue in bankruptcy matters over the site of the nuclear incident. Again it should be pointed out that the site is where the occurrence takes place which gives rise to the liability, not the place where the damage may be caused. The district court is authorized to issue orders declaring the liability limited and staying the payment of claims and the execution of court judgments. By this procedure the right of the State courts to establish the liability of the persons involved in the normal way is maintained, but the payment of those liabilities can be stayed. This will permit a payment to all persons who suffer damage on a prorated basis and it will not permit full payment to the first claimants with no payment to the last claimants. In order to alleviate the financial losses of those who may have incurred damages, the court is permitted to order partial payments. Since it is possible that there

may be damages which are not discovered for a period of years, and on the basis of such scientific evidence as may be available to it, the court is authorized to set aside a portion of the funds available to cover such later claims.

Subsection f. establishes the charges for reactors which have been proven to be of commercial value under section 103 at $30 per year per thousand kilowatts of thermal energy capacity. The thermal energy capacity is a rough indication of the amount of special nuclear material which is put into the reactor and is therefore a rough guide to the amount of hazard involved in operating a reactor. For the research and development reactors which can be licensed under section 104, the Commission is authorized to charge less than $30 per year for the indemnity. This reduction is permitted because some research and development reactors do not involve the hazards that the section 103 reactors would entail. It is also authorized because the policy of the Commission may be to encourage research and development work by having the Commission render these indemnification services without charge—or at a reduced charge—to those engaged in the research and development work. The Commission is also authorized to make a lesser charge for an indemnity granted under the construction permit since the hazards in building a reactor are not as great as those hazards which accompany the operation of a reactor.

Subsection g. requires the Commission to use to the greatest extent practicable the facilities and services of private insurance companies and insurance adjustment organizations. Under the bill, as drafted, these organizations could provide real services to the Commission without requiring the Commission to build up an organization of its own. The brokers who give advice to the persons indemnified and provide services in connection with the financial protection would, of course, be agents of those persons and not of the Government. The brokers can look to the persons indemnified for their fee.

Subsection h. contains some of the clauses which it was felt the Commission should have in its agreements for indemnification. In addition to giving the Commission specific authority to write the indemnification agreements with clauses that it deems appropriate, the Commission is required to collaborate with the person indemnified if it seems probable that the United States will be required to make indemnity payments. The Commission may be permitted to appear in any action through the Attorney General and is given final authority on behalf of the United States to settle a claim on a fair and reasonable basis. This latter authority is put into this bill so that the Commission need not be bound by legal technicalities, such as rules of legal proof in a situation in which the courts have not yet had a chance to establish new rules for new problems arising from radiation. This authority is also given to the Commission so that its settlements need not be required to pass through technical governmental accounting procedures before payment. In addition, this authority is given to the Commission so it need not wait for an action to go to final judgment but can be settled when it seems fair and reasonable. In giving the Commission additional authority to include reasonable expenses to the person indemnified, it is expected that such expenses could include reasonable attorney's fees incurred by the person indemnified.

Subsection i. requires the Commission to make a survey in any incident where it appears likely that indemnity payments will be

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made under the bill. This survey is an aid to the Congress in establishing the causes of a nuclear incident. It is an aid to the parties in any action where it is unlikely that the public would be able to obtain the full amount of technical information which might be required. These reports are required to be made public except to the extent that they contain classified information. In addition, the Commission is required to report every 3 years to the Joint Committee on the operations of this bill.

Subsection j. permits the Commission to enter into an indemnity contract in advance of appropriations and without advertising. It makes the appropriations to the Commission available for payment under the indemnity agreements. In order to obtain emergency financing, the Commission is authorized to borrow $50 million from the Secretary of the Treasury.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill accompanying this report are shown as follows (new matter is printed in italics):

A BILL To amend the Atomic Energy Act of 1954, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Atomic Energy Act of 1954, as amended, is amended by adding a new subsection to read as follows:

> *"i. In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses."*

Sec. 2. Subsection 53 e. (8) of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

> "(8) *except to this extent that the indemnification and limitation of liability provisions of section 170 apply,* the licensee will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee."

Sec. 3. Section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsections, and redesignating the other subsections accordingly:

> *"j. The term 'financial protection' means the ability to respond in damages for public liability."*
>
> *"t. The term 'public liability' means any legal liability arising out of or resulting from a nuclear incident, except claims under State or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed in connection with the activity where the nuclear incident occurs, and except claims for damage to property of persons indemnified which is located at the site of and use in connection with the activity where the nuclear incident occurs."*

"n. The term 'nuclear incident' means any occurrence within the United States causing bodily injury or death, or loss of or damage to property, or for loss of use of property arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material."

"q. The term 'person indemnified' means the person with whom an indemnity agreement is executed and any other person who may be liable."

SEC. 4. The Atomic Energy Act of 1954, as amended, is amended by adding thereto a new section, with the appropriate amendment to the table of contents:

"SEC. 170. INDEMNIFICATION AND LIMITATION OF LIABILITY.—

"a. Each license issued under section 103 or 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63 or 81 may, have as a condition of the license a requirement that the licensee have financial protection of such type and in such amounts as the Commission shall require in accordance with subsection 170 b. to cover public liability claims. Such financial protection may include private insurance, private contractual indemnities, self insurance, other proof of financial responsibility, or a combination of such measures. Whenever such financial protection is required, it shall be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection 170 c. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

"b. The amount of financial protection required shall not exceed the amount of liability insurance available from private sources. The Commission shall establish criteria in writing for the determination of the amount of financial protection to be required, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the facility and other factors pertaining to hazard, and (3) the nature and purpose of the facility.

"c. The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1966, for which it requires financial protection, agree to indemnify and hold harmless the licensee and other persons indemnified (other than a Government agency), as their interest may appear, from public liability claims arising from nuclear incidents which are in excess of the amount of financial protection required, but not to exceed $500,000,000 in the aggregate for all persons indemnified in connection with each license and for each nuclear incident. Such a contract of indemnification shall cover public liability claims arising from nuclear incidents occurring during the period of the license.

"d. In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1966, to enter into agreements of indemnification with its contractors for the construction or operation of production or utilization facilities or research and development plants for the benefit of the United States. In such agreements of indemnification the Commission may require its contractor to provide financial protection of such a type and in such

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amounts as the Commission shall determine to be appropriate to cover public liability claims arising from nuclear incidents occurring during the period of the contract and to indemnify the persons indemnified against such claims above the amount of the financial protection required, but not in excess of $500,000,000 in the aggregate for all persons indemnified in connection with such contract and for each nuclear incident. Such agreements may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Commission.

"e. The aggregate liability for a single nuclear incident of persons indemnified shall not exceed the sum of $500,000,000 together with the amount of financial protection required and any other sums which may be made available by the Congress as additional indemnification. The Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the nuclear incident, and upon a showing that the public liability from a single nuclear incident will probably exceed the limit of liability imposed by this section, shall be entitled to such orders as may be appropriate for enforcement of the provisions of this section, including an order limiting the liability of the persons indemnified, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, orders permitting partial payments to be made before final determination of the total claims, and an order setting aside a part of the funds available for possible latent injuries not discovered until a later time.

"f. The Commission is authorized to charge for the right of indemnification given by subsection c. of this section. This charge shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 103. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the charge set forth above. The Commission shall establish criteria in writing for determination of the charge to be made for facilities licensed under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall make such nominal charges as it deems appropriate.

"g. In administering the provisions of this section, the Commission shall use, to the maximum extent practicable, the facilities and services of private insurance companies and insurance adjustment organizations, and the Commission may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon a showing by the Commission that advertising is not reasonably practicable, and advance payments may be made.

"h. The agreement of indemnification may contain such terms as the Commission deems appropriate to carry out the purposes of this Act. Such agreement shall provide that, when the Commission makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission shall collaborate with any person indemnified and may approve the pay-

ment of any claim, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this Act. Such settlement may include reasonable expenses in connection with the claim incurred by the person indemnified.

"i. After any nuclear incident which will probably require payments by the United States under this section, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee. Except as forbidden by the provisions of chapter 12 of this Act or any other law or executive order, such reports shall also be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1957, and every three years thereafter on the operations under this section.

"j. In administering the provisions of this section, the Commission may make contracts in advance of appropriations and incur obligations without regard to section 3679 of the Revised Statutes, as amended. Any appropriations presently or hereafter made available to the Commission shall be available for the payment of obligations under indemnity agreements entered into under this section. In order to provide emergency and temporary financing under this section in the event of a nuclear incident for which it seems probable that the Commission will be required to make any payments under the terms of this section, the Commission is authorized to issue to the Secretary of the Treasury, from time to time, notes or other obligations in amount not exceeding, 50,000,000 outstanding at any one time. Such notes or other obligations shall contain such terms and conditions as may be agreed on by the Commission and the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations fo the Commission to be issued hereunder and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sales of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchase of such notes or obligations. All redemptions, and purchases by the Secretary of the Treasury of such obligations shall be treated as public debt transactions of the United States."

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SEPARATE VIEWS OF REPRESENTATIVE HOLIFIELD

I am opposed to the pending bill which authorizes Government liability on atomic reactors.

Atomic power reactors are in the experimental stage. The history of experimental reactor operations is very limited. Government-owned reactors have been operated under the urgency of nuclear weapon production for national protection. Unknown risks have therefore been assumed by the Government.

Reactors have been located in sparsely settled areas—away from great centers of population. The Government assumed all responsibility for operation of reactors and location of reactors. Public liability for a blowup, meltdown, or leakage of reactors was and is a Government responsibility today in Government facilities.

Neither the AEC nor the private insurance companies have been able to compute on the basis of recorded reactor operation a mathematical formula or table of probable risk for possible reactor blowups, meltdowns, or leakages which might poison surrounding areas with lethal radioactivity.

While there has been accidental leakage as a result of partial melting of uranium fuel rods there has not been any significant contamination of nearby areas. Such recorded events have occurred to small experimental type reactors of a size many times smaller than the large power reactors now being designed for the power demonstration programs of the utility groups.

Larger reactors necessarily involve the risk of large accidents and larger areas of contamination.

These larger power reactors are being located or planned to be located near large centers of population.

The private insurance companies refuse to insure public liability for over $65 million for each reactor. They have not as yet set a price on their premiums.

Under this bill the Government assumes the public liability risk, over the private insurance risks, up to a maximum of $500 million on one reactor incident. The Government for this risk assumption charges $30 per 1,000 thermal kilowatt capacity annually or $3,000 annual premium for a 25,000 electrical kilowatt capacity plant.

For a $3,000 annual premium the Government assumes a minimum public liability of $500 million per reactor. If the utilities are not required by AEC to take out the maximum coverage of $65 million, the Government must assume additional millions of liability to fill the gap.

Why do the hardheaded insurance companies decline to place full coverage public liability policies on atomic reactors?

This is a very simple explanation:

(1) They have not been able to assess the percentage of risk involved in atomic-reactor operation. They have access to the best engineers, scientists, physicists, and even UNIVAC, but too many

intangibles are involved in this new and unknown risk to enable them to operate on a known table of probable risk.

(2) They do know that if a large power reactor runs wild and a major meltdown occurs the total loss of life, injury to survivors, and property damage would involve dollar claims of such a magnitude that any private insurance company or group of such companies would be forced into bankruptcy.

AEC Commissioner Libby's testimony based on his scientific background of radiation knowledge and access to all available data can be found in the hearings. He uses the following example of probable contamination based on accidental release of 1 percent of the fission products from a small 2,500 electrical kilowatt reactor:

> * * * in an area of 1 to 5 square miles, crops would probably be unfit for use, within this same area perhaps one-half square mile would have to be temporarily evacuated, perhaps 50 to 100 acres would be unusable for about 2 years without thorough decontamination; and in addition, of course, there might be a few acres near the site which would be more heavily contaminated. For higher power reactors, these figures would be increased nearly proportionally. Of course, larger releases than 1 percent could conceivably occur though the probability or possibility of any release depends strongly on the reactor design and the type of containment.
>
> These estimates are merely orders of magnitude and would be influenced by local conditions of terrain, wind patterns, and nature of the surfaces. Personnel contamination might also occur within these areas, with the result that immediate decontamination would be necessary to prevent injury from the beta radiations.
>
> Once the area has been contaminated, the intensity of radiation will decrease by two mechanisms: (1) by normal radioactive decay and (2) by weathering and possible incorporation into the topsoil. Gamma dosage rates at several feet above the ground will decrease to the maximum permissible whole body dosage of 300 mr/week in about 5 years for an initial contamination of 5 millicurie per square foot of surface area; in about 2 years for an initial contamination of 2 millicurie per square foot area; and in about 1 year for the 0.5 millicurie per square foot area. The specific times required will be dependent upon the weathering and upon the time of irradiation of fuel elements.
>
> Rainfall during the escape of fission products would change these estimates since the rate of local deposition would be increased and the areas immediately surrounding the plant would be subjected to much higher contamination levels. This, of course, would increase the probability of severe damage close in but would decrease the damage farther out, with a reduction of the total area involved.
>
> Contamination of bodies of water could occur both by direct fallout and by secondary leaching of the materials from the land into the streams. Direct fallout could render bodies of water reasonably close to the reactor unfit for

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use until the material was carried away. However, leaching into the stream is slow enough to cause little trouble although monitoring downstream is advisable.

Let us consider the possibility of a radioactive cloud of fission products passing over a stream during a rainfall. Severe contamination could result depending upon the rate of rainfall and the stream flow characteristics. Of more concern, in at least some cases, is the possibility of the escape of reactor coolant containing a significant quantity of fission products. Such a mishap could result in a fairly large volume of contaminated water, depending again upon the flow characteristics of the stream. This could cause severe downstream contamination of water-treating plants or other equipment.

Worst possible damage estimates: In estimating the maximum possible cost of a major reactor failure, one can assume the very unlikely total release of all the fission products instead of the possible 1 percent discussed above.

If one assumes (*a*) that property contaminated to the point where it would be unusable for more than 2 years (i. e., above 2 millicurie per square foot would have to be retired from productive use and the owner compensated for the loss of his land at full market value, (*b*) that property contaminated to the point where it would be unusable for 2 years or less would require reimbursement to the extent of about 10 percent of the market value, and (*c*) that the first year's crops on slightly contaminated land would not be offered for sale and the owner would be reimbursed therefor, but not for subsequent crops on the same land, then using certain figures from the Census Bureau for the value of urban and rural land and crop together with the assumptions just given, we estimate a range of worst possible property damage as follows:

(*a*) for a 10,000 thermal kilowatt reactor, from $5 to $24 million;

(*b*) for a 100,000 thermal kilowatt reactor, from $50 to $200 million.

Larger reactors would involve the possibility of larger amounts of damage. This, I want to emphasize, is based on the worst possible case—explosive rupture of the core of the reactor and complete release of all the accumulated fission products after 100 days of operation at full power.

This estimate of radiation damage, I emphasize, is based on a small 2,500 electrical kilowatt capacity plant. As a comparison the Potomac Electric Power Co. plant located about 2½ miles from the Capitol is rated at 270,000 electrical kilowatt capacity. (This plant serves only a part of Washington, D. C.)

Multiply Dr. Libby's estimated damage of a small plant by the size of a large plant such as Pepco and then multiply that factor by a 25 or 50 percent release of contamination instead of a 1 percent release and you can realize why the private insurance companies cannot afford to gamble their assets against an unknown but potential hazard which almost defines the imagination.

An aye vote on S. 4112 and its companion bill in the House means you are willing to take the gamble, not just with dollar liability but

with hundreds of thousands of human lives in every urban center, where these atomic reactors will be placed and where they may blow up, melt down, or leak deadly gas, liquids, or finely divided particles into the nearby cities.

An aye vote means that you are helping to place these potential hazards near your people and add to their peacetime nuclear hazard. The potential increased radiation hazard of sabotage or enemy bombing in case of war is a potential danger which is ignored, although it could be a terrible added factor of radioactive contamination in case of war.

Multiple building of atomic power reactors which are highly uneconomic at this period of their development presents many other hazards not only to people living near the reactors but possibly to those hundreds of miles away.

A few examples: Accidents which might occur in transporting the used fuel elements from the reactor site to the reprocessing plant hundreds of miles distant from most large cities.

Disposal of deadly radioactive waste both liquid and solid.

Gaseous emissions from reactor ventilating stacks (in event of core melting) which winds may carry many miles.

CONCLUSION

I am not against progress in the reactor building art. I believe that it is premature in the present state of the art to take blind risks with human lives before we acquire more knowledge and operating experience in this new and potentially dangerous art.

I believe that the quickest and safest way to progress is to build reactors at present Government-owned isolated sites, under strict supervision of experienced technicians, under strict safety precautions, under Government supervision and where direct Government responsibility is exercised. Such a program would obviate the necessity for this type of legislation.

I would have no real objection to private industry participating at Government-owned sites during this critical experimental stage of the art.

CHET HOLIFIELD.

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